Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
------------------------------------x
ANWAR ALKHATIB, Case No.
Plaintiff, 13-CV-02337
(ARR)(SMG)
-against-
ACTION #1
NEW YORK MOTOR GROUP LLC, et al.,
Defendants.
------------------------------------x
SHAHADAT TUHIN, Case No.
Plaintiff, 13-CV-5643
(ARR)(SMG)
-against-
ACTION #2
NEW YORK MOTOR GROUP LLC, et al.,
Defendants.
------------------------------------x
BORIS FREIRE and MIRIAM OSORIO, Case No.
13-CV-7291
Plaintiffs, (ARR)(SMG)
-against-
ACTION #3
NEW YORK MOTOR GROUP LLC, et al.,
Defendants.
------------------------------------x
SIMON GABRYS, Case No.
Plaintiff, 13-CV-7290
(ARR)(SMG)
-against-
ACTION #4
NEW YORK MOTOR GROUP LLC, et al.,
Defendants.
------------------------------------x
(Caption continued on next page.)

VIDEOTAPED EBT OF: NADA SMITH

DATE: February 26, 2015
TIME: 10:30 a.m.

------------------------------------x
ZHENGHUI DONG, Case No.
Plaintiff, 14-CV-2980
(ARR)(SMG)
-against-
ACTION #5
NEW YORK MOTOR GROUP LLC, et al.,

Defendants.
------------------------------------x
NASRIN CHOWDHURY, Case No.
Plaintiff, 14-CV-2981
(ARR)(SMG)
-against-
ACTION #6
NEW YORK MOTOR GROUP LLC, et al.,

Defendants.
------------------------------------x

VIDEOTAPED DEPOSITION of the Defendant, NEW YORK MOTOR GROUP LLC, by NADA SMITH s/h/a NADA ELTOUBY, pursuant to Order and Notice, held at the law offices of MFY LEGAL SERVICES, INC., 299 Broadway, 4th floor, New York, New York, on February 26, 2015, commencing at 10:30 A.M., before MEDEA

EDER, a shorthand reporter and Notary Public within and for the State of New York.

REINIG REPORTING, INC.
192 Lexington Avenue
Suite 805
New York, New York 10016
(212) 684-7298

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-continued-

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BY: ROBERT J. BRENER, ESQ.

ALSO PRESENT:
MAMDOH ELTOUBY, Defendant

oOo

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by

and between the attorneys for the respective parties hereto, that filing, sealing and certification are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any Notary Public with the same force and effect as though signed and sworn to before this Court.

N A D A S M I T H , having been first duly sworn by a Notary Public within and for the State of New York, stated her address as 3896 Michigan Avenue Road NE, Cleveland, Tennessee 37323, was examined and testified under oath as follows:

oOo

EXAMINATION BY MR. LANE:

Q Good morning, Ms. Smith. My name is Peter Lane. I'm of counsel to Schlanger & Schlanger, the firm that represents five of the plaintiffs in these related cases. I represent all plaintiffs except Mr. Tuhin.

Before we get into some more detailed questions about these cases, I just want to find out have you ever testified at a deposition before?

A No.

Q Have you ever testified in a court case before at all?

A No.

Q What is going to happen here is we are going to go through a series of questions

Nada Smith

with you about these lawsuits and about the transactions that were involved in the lawsuits.

A Okay.

Q The court reporter is going to be taking down everything that I ask and everything that you say. In addition, we are videotaping the testimony, so you do need to speak clearly as your attorney had indicated and you need to answer all questions audibly. Don't shake your head to indicate "Yes" or "No," because the court reporter can't take that down.

A Got it.

Q During this deposition you are under oath. Do you know what that means?

A No.

Q Essentially, if you do not answer each question truthfully you can be certainly held in contempt for making false statements under oath, and there could be other consequences. So you do need to speak clearly, answer each question honestly, and if you don't understand the question please ask me to repeat

it.

A Okay.

Q So if I do ask you a question and you don't understand it, I assume that you will ask. If you don't ask, I assume it will be reasonable for me to continue to assume that you do understand the question.

A Okay.

Q Let me begin. Can you just state your full legal name.

A Nada Smith.

MR. SIMON: I'm sorry, I didn't hear that. You've got to keep your voice up so everybody can hear, okay?

THE WITNESS: Okay.

MR. SIMON: Can you say that again?

THE WITNESS: Nada Smith.

MR. LANE: Mr. Simon, I'm just going to make sure that this is on the record right from the get-go.

You absolutely need to be here because your clients are being deposed. You can cite your objections. As you

know, that is certainly your clients' right to have you here and make those objections. I do ask that you keep -- that you don't continue to interrupt the depositions by speaking directly to your client, or do anything other than raise an objection. Thanks.

MR. SIMON: I just told her to keep her voice up, because the first answer she gave, I couldn't hear.

MR. LANE: That's exactly what I'm talking about. Can you just let me continue, please.

Q So your full legal name is Nada Smith?
A Correct.
Q Is "Smith" your married name?
A Yes.
Q What is your family name?
A Eltouby.
Q Could you spell that?
A E-L-T-O-U-B-Y.
Q How old are you?
A Twenty-five.

Q Please tell me your date of birth.
A 8/1/89.
Q And you are married?
A Correct.
Q I know you just told the court reporter this, but could you just repeat your address for me?
A Sure. It's 3896 Michigan Avenue

Road Northeast, Cleveland, Tennessee. Zip code, 37323.

Q How long have you lived at that address?

A About seven months.

Q Where did you live before that?

A At home.

Q Where was that?

A Do you want me to state the address?

Q Yes, please.

A 17A Threepence Drive.

Q The name of the road is "Threepence"?

A Yes. Spell out "three."

Q Three?

A And pence, P-E --

Q P-E-N-C-E?

A Yes. Melville, New York. 11747.

Q Did you live anywhere before that?

A No.

Q Whose house is that?

A My dad's.

Q And you grew up in that house?

A Correct.

Q When did you get married?

A June of 2014.

Q What is the highest level of education that you have?

A High school diploma.

Q Where did you go to high school?

A Half Hollow Hills High School East.

Q Where is that located?

A In Dix Hills, New York.

Q Let me ask you this: Did you prepare in any way for the deposition today before you came here?

A I spoke with my attorney. But other than that, no.

Q Did you speak with anyone other than your attorney?

A No.

Q Did you review any documents?

A No.

Q So you're now living in Tennessee?

A Correct.

Q Do you drive?

A No.

Q Do you have a state ID of any kind?

A Yes.

Q Do you have it with you?

A Yes. I have it with my maiden name.

Q Could I see a copy of that?

A Yes.

MR. SIMON: Can I see that first? It's just an ID card.

THE WITNESS: Mm-hmm.

MR. LANE: This is your New York State ID. Would you mind if we made a photocopy of this? Actually, we would like to make a photocopy of this.

Nada Smith

MR. SIMON: Do you really need a copy of it?

MR. LANE: Yes.

THE WITNESS: Why do you need a copy of that, if you don't mind me asking?

MR. LANE: Actually, you can't ask questions and I don't have to answer questions.

THE WITNESS: Okay.

MR. SIMON: Do you want to mark it as an exhibit?

MR. LANE: Sure, yes, let's do that. We'll make a copy and then we'll mark it as an exhibit.

We are making a copy of Ms. Smith's New York State identification card and we will mark it as Plaintiff's Exhibit 1.

(Copy of Ms. Smith's New York State identification card is marked as Plaintiff's Exhibit 1 for identification, as of this date.)

(A discussion is held off the

Nada Smith

record.)

Q We're back on the record.

Ms. Smith provided us with her New York State identification card.

We made a copy of it, and you did receive it back; correct?

A Correct.

Q So we have marked a copy as Plaintiff's Exhibit 1. Do you have Tennessee state ID or any ID with your married name?

A Yes, I do.

Q Could we see a copy of that?

MR. SIMON: What's the point?

Q You have shown me a United States Uniformed Services identification card?

A Yes.

MR. LANE: Okay. We're just going

to make a photocopy of this, we're going to mark it as Exhibit 2, and we'll proceed from there. Off the record.

(A discussion is held off the record.)

(Copy of Ms. Smith's United States Uniformed Services ID card is marked as

Plaintiff's Exhibit 2 for identification, as of this date.)

Q We're back on the record. Let's put these in front of you. You did provide me with your United States Uniformed Services identification and privilege card?

A Yes.

Q We made a copy of it and we marked it as Exhibit 2 and I returned the original card back to you; correct?

A Correct.

Q Are you in the armed services?

A No, my husband is.

Q Your husband is, okay. Could you tell me your husband's name?
A Jonathan Adam Smith.
Q What branch of the armed services is he in?
A Army.
Q What is his rank?
MR. SIMON: Objection. The rank of the husband has nothing to do with this.
MR. LANE: Your objection is

noted.
Q You can answer the question.
MR. SIMON: I'm telling her not to answer that. Let's go on the record with the judge. You're asking the rank of the husband? We're getting into stupidity here. You want to know her husband's rank in the military as if

it's relevant here? Give me a break. Let's move ahead. This is craziness. I'm upset about it.

Let's get the judge on the line right now. I demand we get the judge if you're going to start asking about her husband's rank. This is pitiful. Let's get the judge on the line right now. If you want to pursue that question, I demand we get the judge. I'm not going to let her answer it. At some point you've reached the limit. Her husband's rank in the military down in Tennessee?

MR. LANE: Here's what we're going to do. We're going to just note that for the record and we're going to

continue. We're not going to get the judge on the phone for that. It's not the most important thing. Let's go on.

MS. LINDERMAYER: And we will also

note that you stood up, raised your voice and slammed the table for the record.

MR. LANE: That's right.

MR. SIMON: I'm on the record.

MR. LANE: Right. Just to be clear, all of Mr. Simon's comments were on the record.

MR. SIMON: They're intended to be.

MR. LANE: All right.

Q Why did you move to Tennessee?

A I got married.

Q You got married in -- I'm sorry -- June of 2014?

A Yes.

Q So I understand you got married June 2014. But why then did you move to Tennessee?

A I moved after I got married.

Q Is your husband in active duty?
A No.
Q Is he stationed in --
A No.
Q Is he stationed in Tennessee?
A No.
Q But he is not on active duty now?
A No, he's in the reserves.
Q In the reserves, okay. Did you get married in Tennessee or in --
A No. In New York.
Q Can you tell me the first month in which you were residing in Tennessee?
A June.
Q June 2014?
A Yes.
Q That is the month you moved?
A Yes.
Q Was your wedding here or in Tennessee?
A Here.
Q Did you or your husband have a job in Tennessee that brought you down there?
A He did.

Nada Smith

Q What does he do for a living?
A He's a police officer.
Q In Cleveland?
A In Alabama.
Q Are you working now?
A Yes.
Q Where do you work?
A At Lowe's. Lowe's Home Improvement.
Q Lowe's Home Improvement center, okay. What do you do at Lowe's?
A Cashier.
Q Where is Lowe's?
A In Tennessee.
Q Could you give me the address of the --
A I don't know the address. I just I know it's in Kimball.
Q Kendall?
A Kimball, Tennessee.
Q K-E?
A K-I-M-B-A-L-L.

Q And you're a cashier?

A Yes.

Q How long have you been working there?

A A week.

Q Did you have a job in Tennessee before that?

A No.

Q When you were living here in New York, did you have a job? In June 2014, did you have a job?

A I had left in the beginning of June.

Q What job was that?

A It was at another dealership.

Q Which dealership?

A I'm sorry, I'm just trying to remember the name.

Q That's all right. You can't

consult with your attorney to answer the question.

MR. SIMON: If you remember. But if you don't remember, you don't remember.

A I don't remember.

Q What town was the dealership in?

A In Long Island City.

Q Who owned the dealership?

A I don't remember his name.

Q When did you start working there?

A January of '14.

*RQ MR. LANE: We're going to leave a blank in the transcript for the name of the dealership.

INSERT: ____

MR. LANE: You will obviously refresh your memory about this after the deposition, and I will serve it on your attorney, and you will provide us with the name and the address of the dealership.

Q Do you know at least at this point what street the dealership was on?

A Northern Boulevard.

MR. SIMON: I can provide that information if you would like.

MR. LANE: That would be great, thank you.

MR. SIMON: JF Motors. It's located on Northern Boulevard in Long

Island City, I think.

THE WITNESS: Yes.

MR. LANE: Can you provide me with the name of the owner of JF Motors?

MR. SIMON: I think I know the person. The last name is Kahn. K-A-H-N. First name is Faisel. F-A-I-S-E-L.

Q When did you begin working at JF Motors?
A January.
MR. SIMON: Off the record.
(A discussion is held off the record.)
Q Your attorney has just provided us with some information about JF Motors, Ms. Smith. Does that sound right; that the owner was Faisel Kahn?
A Correct.
Q Did Faisel Kahn hire you to work at JF Motors?
A Yes.
Q When did he hire you?
A January.

Q January of what year?
A 2014.
Q What was your role at JF Motors?
A Just a receptionist.

Q What were some of the duties that you took care of as a receptionist?

A Answering phones, making appointments, and filing paperwork.

Q Were any of your responsibilities similar to a cashier? Did you handle money at all --

A No.

Q -- for JF Motors?

Did you assist at all in the financing process?

A No.

Q With anyone?

A No.

Q Where did you work before JF Motors?

A New York Motor Group.

Q When did you begin working at New York Motor Group?

A October of 2012.

Q And you worked there consistently from October 2012 to December 2013?
A Correct.
Q After December 2013, did you continue to work at New York Motor Group at all?
A No.
Q Why did you leave New York Motor Group?
A I just wanted to leave.
Q Who owns New York Motor Group?
A My father.
Q Your father is Mamdoh Eltouby?
A Correct.
Q What was your job title at New York Motor Group?
A Assistant. Receptionist also.
Q Assistant receptionist?
A Assistant and receptionist.
Q Assistant and receptionist, okay.
A Assistant. I mean, assisting my father with the dealership.
Q What are some of the tasks that you did while assisting your father in the

Nada Smith

dealership?

A Answering phones, making appointments, handling -- filing the paperwork.

Q What kind of paperwork did you file?

A The deals.

Q Can you explain what you mean by "the deals"?

A The deals. The files. The customer files.

Q What were some of the documents that would be in the deal?

A A bill of sale. Contract. Their DMV paperwork. Copies of all their stuff; licenses and everything like that, and insurance cards and everything.

Q Did you deal with the customers directly?

A No.

Q Did you ever speak with the customers?

A They came in and said hi and I

greeted them, you know, but I didn't directly
deal with them.

Nada Smith
Q When you said you greeted people, was your desk in such a place that if people came in you would be the first person they would see?
A No. I mean if they were there, I wasn't going to be rude and just ignore them, you know. I did say hi to them.
Q Where were you sitting in the office?
A It was a back office. I could see the front door, but it was just in an office.
Q Who supervised your work?
A Nobody.
Q No one supervised you; all right.
A There was a sales manager that supervised the salespeople, but no one supervised me.

Q What was the sales manager's name?
A I don't remember.
Q Let me move on here. Before October of 2012, did you have a job?
A Yes.
Q Where were you working before that?

A Habberstad BMW of Bay Shore.
Q Habberstad BMW?
A Of Bay Shore, yes.
Q What did you do at Habberstad BMW?
A Front desk receptionist.
Q When did you start working there?
A I believe, June of 2010.
Q And you worked there until October 2012?
A Correct.
Q I'm losing track of the years here. You were born in '89, right?
A Correct. Actually, wait, I'm

sorry, it was 2011. I'm sorry.

Q That's okay.

A I believe it was 2011.

Q Did you have a job before Habberstad BMW?

A Yes.

Q Where was that?

A Dodge Jeep & Chrysler in -- I know it was on Sunrise Highway. Wantagh.

Q Wantagh?

A Mm-hmm.

Q What did you do at Dodge Jeep & Chrysler?

A Receptionist.

Q When did you start working there?

A I don't remember honestly.

Q But there was no job in between Dodge Jeep & Chrysler and Habberstad BMW?

A No, because I left Dodge Jeep &

Chrysler for BMW.

Q And you're not sure if it was 2011 or 2010 when you did that?

A It was 2011 that I started with BMW. I don't remember when I started with Dodge, but I was with them for a while.

Q Until June 2011 or so, okay. Did you have a job before Dodge Jeep & Chrysler?

A Yes.

Q Where was that?

A Dodge Jeep & Chrysler also, but in Amityville.

Q Is that the same dealership at --

A No.

Q -- different locations? No?

A No.

MR. SIMON: You want the name of that dealership, the one in Amityville?

MR. LANE: Sure, if you have it.

MR. SIMON: I think it's

"Security." Give him a complete answer now, okay?

Q So you worked at Security Dodge Jeep & Chrysler in Amityville and Dodge Jeep & Chrysler on Sunrise --

A It's just Dodge Jeep & Chrysler of Wantagh.

Q The question is: Was there a specific name for the Dodge Jeep & Chrysler on Sunrise Highway in Wantagh?

A It was the Dodge Jeep & Chrysler of Wantagh.

MR. LANE: Do let me finish the question. I appreciate that you can often anticipate what I'm saying, but just let me complete it and then answer it. Thank you. I appreciate that, and so does the court reporter.

THE WITNESS: No problem.

Q At Security Dodge Jeep & Chrysler

of Amityville, what was your job title?

A Service receptionist.

Q Service receptionist?

A Correct.

Q Working with the service technicians?

A The service department. I checked in clients and checked out clients, made appointments for them.

Q To have their vehicles serviced at the dealership?

A Correct.

Q Do you know when you began working with Security Dodge Jeep & Chrysler?

A No, I don't.

Q Did you have a job before that?

A I don't remember.

Q What year did you graduate high school?

A 2008.

Q 2008, okay. Do you think you went to work right after graduation?

A I was working at Express. Then I worked at my dad's dealership to help him out a

Nada Smith
little bit.
Q Which dealership is that?
A The one in Long Island.
Q Do you remember the name of that?
A Yes. Planet Auto Group. Located in Huntington.
Q So you did work there --
A Yes.
Q -- after high school and before working at Security Dodge Jeep & Chrysler of Amityville?
A Yes.
Q Is Planet Auto Group still open?
A Yes, to my acknowledgment.
Q You think that you started working there in 2008, right after graduation or shortly after graduation?
A I would say 2009.
Q How long did you work at Planet Auto Group of Huntington?
A Up until I started working at Security Dodge.

Q Security Dodge?

A Yes. I don't remember what years

Nada Smith

or anything, but I know that I started with BMW in 2011, so, you know.

Q So between 2009 and 2011, you worked at your dad's place, Planet Auto Group; you worked at Security Dodge Jeep & Chrysler; and you worked at Dodge Jeep & Chrysler of Wantagh?

A Correct.

Q And then you said during high school you worked at Express?

A Yes.

Q Where?

A In Walt Whitman Mall, located in Huntington.

Q What was your job there?

A Just a sales associate.

Q What did that involve?

A Taking care of the store. Folding clothes. Stocking up on the merchandise and everything like that. I didn't handle cashier.
Q You didn't handle cashiering?
A No.
Q You were just on the floor and in the storeroom?

A Exactly.
Q What did you do for your dad at Planet Auto Group in Huntington?
A Receptionist.
Q At Planet Auto Group in Huntington as a receptionist, did you deal with money or --
A No.
Q -- with the financing agreements?
A No.
Q Did you deal with money at all at Security Dodge Jeep & Chrysler, where you were the service receptionist?

A Yes.

Q In what way would you --

A When they paid for their service.

Q You would take their money?

A Mm-hmm.

Q Did you have a supervisor at Security Dodge Jeep & Chrysler?

A Yes. I don't remember his name though, I'm sorry.

Q Did you have a supervisor at Dodge Jeep & Chrysler of Wantagh?

A Yes.

Q Do you remember his or her name?

A I believe his name was Joseph. I don't remember his last name.

Q Did you handle money at all --

A No.

Q -- from customers at Dodge Jeep & Chrysler?

A No.

Q You said that you were the front door receptionist at Habberstad BMW of Bay Shore?

A Correct.

Q Did you deal with money there at all?

A No.

Q Did you ever work at Planet Motor Cars in Queens, New York?

A No.

Q Are you familiar with Planet Motor Cars?

A Yes.

Q Do you know who owned Planet Motor Cars?

A My father -- no, I'm sorry, I believe it was my mother.

Q Your mother?

A Yes. I'm not too sure honestly.

Q So you don't know if your father or your mother owned Planet Motor Cars?

A I don't know. But I know it's family-owned.

Q What is your mother's name?

A Shadia Ibrahim.

MR. LANE: Excuse me, I'm sorry, you can't talk to each other. You can't speak at all during her deposition.

THE WITNESS: I'm sorry.

Q What is your mother's name?

A My mother's name is Amir Sharif Eldin.

Q A-M-I-R?

A Mm-hmm. Sharif.

Q S-H-A-R-I-F.

A I don't know.

Q And her last name?

A That's her last name.

Q And then the third name again,

Amir Sharif?

A Eldin. That's all one name.

Q Sharif Eldin?

A Yes.

Q E-L-D-I-N?

A Yes.

Q Before that, you gave me a different name: Shadia Ibrahim?

A That's my stepmother.

Q Is your mother living?

A Yes.

Q Amir Sharif Eldin?

A Yes.

Q Are your parents divorced?

A Yes.

Q Do you think your mother or your stepmother may have owned Planet Motor Cars?

A My stepmother.

Q Shadia Ibrahim?

A Correct.

MR. LANE: Let's go off the record.

(A discussion is held off the record.)

Nada Smith

Q Are you familiar with Hillside Motors --

A Yes.

Q -- on Hillside Avenue in Queens?

A Yes.

Q What do you know about Hillside Motors?

A I know it's a car dealership.

Q Did you ever work there?

A No.

Q Have you ever been there?

A Once or twice.

Q Why were you there?

A Just to pick up a relative.

Q Do you know who owns Hillside Motors?

A No.

Q Why were you picking up a relative at Hillside Motors?

A It's a family-owned business. I'm not sure who owns it.

Q Someone in your family owns it?

A Yes.
Q You don't know who?

Nada Smith
A No.
Q By "someone," do you think it's either your father or your stepmother?
A I'm not sure.
Q You're just not sure?
A Yeah.
Q Is there some other family member that could possibly own it?
A I don't know.
Q But you seem to know that it is a family-owned business?
A Yes. But I don't know who owns it.
Q Is there any possibility that someone other than your father could be the owner of Hillside Motors?
A Yes.

Q Could you give me a list of some possible people who might be owners of Hillside Motors?
A I don't know, I'm sorry.
Q It just seemed interesting to me that you know that it's family-owned, but you don't know --

A I don't know if it's my uncle.
Q What is your uncle's name?
A I don't know which uncle. I have a lot.
MR. SIMON: No, no. You'll have a chance.
MS. LINDERMAYER: Can the record just reflect that Mr. Eltouby is trying to pass notes to Ms. Smith.
MR. ELTOUBY: [Inaudible]
MS. LINDERMAYER: I'm sorry, you can't speak during the deposition.
MR. LANE: We can't speak directly

to him either.

MR. SIMON: Let's all be quiet. I just want you to be quiet. Let him just ask the questions.

MR. LANE: Off the record.

(A discussion is held off the record.)

oOo

Q I'm sorry, Ms. Smith, you said that you have been to Hillside Motors. Just to be clear: I am talking about Hillside Motors

at 1610 Hillside Avenue in Jamaica, New York. Is that the Hillside Motors that you have been to before?

A I know it's located in Jamaica. I don't know the physical address, but I know it's in Jamaica.

Q You said you have been there to pick up a relative. What relative did you pick up when you went there?

A My sister, I believe.

Q What is your sister's name?

A Sara Eltouby.

Q S-A-R-A?

A "H."

Q "H"?

A Mm-hmm.

Q Did Sarah work at Hillside?

A No.

Q Is Sarah older or younger than you?

A Younger.

Q Do you know her age?

A Eighteen.

Q Let me go back to your time at New

York Motor Group. Again, I'm sorry, tell me what your title was at New York Motor Group?

A Receptionist.

Q Is it true you also said that

you --

A Just assisted my dad.

Q You assisted your father?

A Yes. Well, I was there just to help him out with, you know, with the dealership.

Q Did your father pay you to work there?

A No.

Q So you never received any income from working at New York Motor Group?

A No. Like I said, I was just helping out my dad. I was living at home, so.

Q So you received no paycheck?

A No.

Q No income at all --

A No.

Q -- for working there?

And yet you worked there from October 2012 to December 2013?

A Correct.
Q Did you have any job outside of that where you made money?
A No.
Q So you had no income from October 2012 until December 2013?
A No.
Q Did you file taxes at all during that time?
A No.
Q Did you file taxes in 2011?
A I don't think so.
Q Did you file taxes -- and I know I just asked this, but I want to be clear -- you did not file any taxes for the year 2011?
A I'm trying to remember, I'm sorry.
Q That's okay, take your time.
A Yeah, I did. I'm sorry, I did.
Q Did you file taxes for 2012?
A No.
Q Did you file taxes for the year 2013?
A No.
Q Will you be filing taxes this

Nada Smith

year, for 2014?

A No.

Q You are not filing taxes for 2014?

A I haven't had an income since I don't remember. So, no.

Q You testified that from January 2014 to June 2014, you worked at JF Motors?

A Correct.

Q Did you make income while working there?

A Yes.

Q So are you going to file New York State and IRS tax returns for 2014?

A Yes. I haven't received anything from them.

Q You have not received a W-2?

A No. So that's why I wasn't planning on doing that, because I didn't receive the W-2 or anything.

Q Did you ever receive a W-2 from New York Motor Group?

A No.

*RQ MR. LANE: I'm going to call for
production of copies of Ms. Smith's tax

returns for all tax returns for 2010 to
the present.

MR. SIMON: I take it under
advisement. My belief is that it's not
relevant to the issues of this
lawsuit -- other than for the period of
time she would have worked at New York
Motor Group, which would have been 2012
to 2013; correct?

THE WITNESS: Mm-hmm.

MR. LANE: I will certainly put it
in a letter. Thank you.

THE WITNESS: Are you allowed to
do that?

MR. LANE: Again, I can't answer
your questions and you don't really get
to ask me questions. And you can't

speak to your attorney in the midst of this deposition about answers, so let's just get back to it.

Q When you worked at New York Motor Group, did you communicate with any of the other employees there?

A Yes.

Q What would you generally talk about with the other employees when you spoke with them?

A It was all work-related.

Q What would be some of the examples of why you would need to be speaking to the other employees there?

A Asking them how it went with the client. Asking them just work-related stuff. I don't remember exactly what I would ask them.

Q Why would you ask them about how things went with the client?

A Because I wanted to make sure that

every client was happy.

Q Why did you want to make sure that the clients were happy?

A That's good customer service.

Q Why did you care about good customer service at New York Motor Group?

A Because it's important wherever you go that you have good customer service.

Q Would you report back to your father about what you saw and what you heard from the employees at New York Motor Group?

A Yes.

Q How often would you report back to your father about it?

A Every day. I lived at home.

Q How often was your father at New York Motor Group?

A He was never there.

Q Do you mean to say that never in

the time you were there that your father was ever at the dealership at the same time?

A Yes, he was never there. He just never went to that dealership.

Q Again, I'm not trying to be difficult, but I just want to be clear. On any day that you worked there, your father was never there on the same day?

A No. He was never there.

Q You never saw him inside New York Motor Group while you worked there?

A He stopped by a few times. But he was never there on a daily basis to, you know, see anything. But he did stop by here and there. I don't remember how many times.

Q Who was responsible for hiring the

employees at New York Motor Group?

A My father.

Q Do you know where your father would meet with people --

A No.

Q -- to hire them?

A No.

Q Or interview them?

A No.

Q Do you know where your father was spending most of his time during the period that you were working at New York Motor Group?

A No.

Q Did he own other dealerships during that time?

A I know that he owned the Long Island location.

Q The Planet Auto?

A Yeah.

Q The Planet Auto Group in Huntington, New York?

A Correct.

Q He did own that during that time?

A Yes.

Q So who was in charge of the dealership at New York Motor Group when your father wasn't there?

A We had a sales manager. We had a few. I don't remember any of their names, I'm sorry.

Q Do you remember the names of any of the employees at New York Motor Group?

A The employees?

Q Anyone who worked there, managers or employees?

A Yes.

Q While you were there.

A There was Dewan. There was Julio Estrada.

Q Dewan. And you said Julio Estrada?

A Yes.

Q Anyone else?

A Mohammed.

Q Do you know Mohammed's last name?

A No.

Q Do you know Dewan's last name?

A I know it starts with an A.

Nada Smith
Q Mohammed's last name starts with an A?
A No. Dewan's.
Q I'm sorry. Dewan's?
A Yes. Mohammed, I don't know his last name.
Q Anyone else, other names that you remember?
A Alex. There was this girl named Ola.
Q O-L-A?
A Yes. She wasn't there for that long. Danny.
Q Anyone else?
A Angel.
Q Do you know Angel's last name?
A No. I know it starts with an S.
Q Santiago?
A There we go.
Q Angel Santiago worked there?
A Yes.
Q What did Angel Santiago do there?

A Finance.

Q When you say "finance," can you

Nada Smith

please explain?

A Finance manager. Getting deals approved and giving the loans to the clients.

Q What did Julio Estrada do at New York Motor Group?

A Same thing. Finance manager.

Q Did Julio Estrada work beneath Angel Santiago?

A No. When Julio started, Angel left. I don't know where he went, but he wasn't there any longer.

Q Were you working there when Angel left?

A Yes.

Q When did Angel leave?

A December of 2012.

Q When did Julio Estrada begin?

A December of 2012.

Q Did your father hire Julio Estrada?

A Yes.

Q Did you meet with Julio Estrada before he was hired?

A No. I'd never seen him before.

Never met him before. That was the first time, when he came in to work.

Q So the first time you ever met Julio Estrada was at New York Motor Group?

A Correct.

Q On his first day of work?

A Yes.

Q In December 2012?

A Yes.

Q Was there any other finance representative or finance manager?

A No. It was Angel.

Q And then Julio Estrada?

A Yes.

Q What did Dewan do?

A Sales representative.

Q What about Mohammed?

A Sales rep. There was a manager at one point named Mohammed as well. I don't know his last name. Danny also was a sales manager.

Q Sales manager?

A Correct.

Q What about Alex?

A He's a sales representative. And

Mohammed was also a sales representative. There's two Mohammeds.

Q Two Mohammeds?

A Yes.

Q Mohammed the sales rep and Mohammed the sales manager?

A Yes.

Q Were Mohammed the sales rep and

Mohammed the sales manager at New York Motor Group at the same time?

A I don't believe so. Maybe for a month, but that's it.

Q Were there any salespeople there who spoke Chinese or Mandarin?

A No.

Q Ever?

A No.

Q Not while you were there?

A No.

Q Do you know Alestie Abreu? Is that a familiar name to you? A-L-E-S-T-I-E. A-B-R-E-U.

A No.

Q Did your father have any partners

who owned New York Motor Group with him?

A Not to my acknowledgment. If he did, I didn't know.

Q Did you work with Angel to assist

with the financing of the vehicles in any way?

A No.

MR. SIMON: Note my objection to the form of the question.

MR. LANE: I'm going to rephrase the question.

Q Did you work with Angel in any way?

A No.

Q Did you ever file papers for Angel?

A Yes. Well, he just gave me the deal after he was through with it, and I filed it. That's it.

Q Would you ever fax or email papers for Angel?

A No. Just made copies for the clients, really.

Q When you say "file," what do you mean?

A The deal jacket. The deal that has the client's paperwork.

Q What would you do with it?

A Put it in a cabinet, a file cabinet.

Q Where would that be stored?

A In the office, in the closet.

Q Were papers ever moved out of the office and stored offsite?

A No, not that I know of. If an employee takes a file home or something, I didn't know. Or if something -- you know, all I did was just put it in the cabinet.

Q Where was the cabinet?

A In the closet in the office.

Q In the closet in the office, okay. And was that closet locked?

A No.

Q Did every employee have access to that closet?

A Yes.

Q Did you take notice of who was going in and out of the closet?

A No.

Nada Smith

Q I'm sorry if I've asked you this already, but did you handle money for customers while you were at New York Motor Group?

MR. SIMON: Objection to the form of the question.

Q You can answer.

MR. SIMON: The reason?

MR. LANE: No. You have noted your objection and we are ready to continue.

MR. SIMON: You don't want to know what format I was objecting to?

MR. LANE: Okay, if there's a way I can rephrase the question, then please let me know.

MR. SIMON: You asked did she handle money for customers. I don't know what that means. Do you mean customers of the dealership?

MR. LANE: I will rephrase the question.

Q Did the customers ever hand you

money?

A No.

Nada Smith

Q Did Angel ever hand you money?

A No.

Q Did Julio Estrada ever hand you money?

A No.

Q Did Angel ever ask you to get money for customers?

A No.

Q Did Julio Estrada ever ask you to get money for customers?

A No.

Q Did Julio Estrada ever ask you to fill out money orders for customers?

A No.

Q Did you ever handle refunds to customers?

A No.

Q Did you ever speak to customers about their complaints?

A Yes.

Q Did you ever sign receipts?

A Yes.

Q Did you ever sign legal papers on behalf of New York Motor Group?

A No.

MR. SIMON: Note my objection to the form of the question.

Q Do you recall if you ever signed papers in response to a Department of Consumer Affairs investigation of New York Motor Group?

A No.

Q You don't recall?

A I have never signed anything like that, no. I'm sorry, can you state that question again, about the Consumer Affairs? Like if a complaint came in, or a person came in? Because at one point you know, they do come and do inspections, and I did sign off on an inspection that was done, but that's it. I didn't sign off on any complaints.

Q All right. What inspection was done?

A Oh, they come check on the vehicles to make sure that, you know, they're well-prepared for sales; that their buyer's guide and stuff and everything is on it, and if anything is missing and stuff like that.

Q And you would sign?

A I signed that piece of document, yes.

Q Do you remember what document it was?

A It was just their inspection paper. I don't know what they call it or anything.

Q Do you remember how many times you

did that?

A Once or twice. It wasn't more than that.

Q When you signed those papers, what would you do with them?

A Nothing. She just took it, gave me a copy, and I gave the copy to my father.

Q Who is "she"?

A The woman that came from Consumer Affairs.

Q I just want to make sure that I'm asking this correctly. I just want to make sure that I've got this right: You said that Julio Estrada began working at New York Motor Group in December 2012?

A Correct.

Q And that was the first time you ever met him -- in December 2012?

A Correct.

Q Do you know if he used names other

than "Julio Estrada"?

A Yes.

Q What name did he use when he introduced himself to you?

A John DeSantos. And he called himself, he went by "Jay."

Q J-A-Y?

A Yes. J-A-Y.

Q Did you ever hear him use any other last names?

A No.

Q Did you ever hear him use any others?

A No.

Q Were there files kept on employees at New York Motor Group?

A Just a copy of their licenses, if the employee had it, you know. Just a copy of an ID and their phone numbers.

Q Did you handle those files?

A I knew where they were.
Q Did you take copies of their licenses and IDs?
A Yes.
Q And put it in a file?
A I just took the copies. The sales manager handled it after I took the copy.
Q So you would make the copy?
A Yes.
Q And then who would you give it to?
A Whoever the sales manager was at the moment.
Q So let me just understand this. Let's pretend that I'm a new employee at New York Motor Group, and I'm a sales rep. Would I have been sent to you to give you my license so you could make a copy?
A No. The sales manager would hand me the license, "Here, make a copy if you can, please." Make the copy, hand it back to the sales manager, and he filed it away. But I knew where they were kept.
Q Where were they kept?
A At the sales manager's desk.

Nada Smith

MR. LANE: Let's go off the record. We'll take a five-minute break.

(Whereupon Mr. Keshavarz enters the deposition room at 11:39 a.m.)

(A brief recess is taken. A discussion is held off the record.)

oOo

MR. LANE: Could you read back the last question and answer?

(The record is read back by the reporter.)

Q So did you ever access those files kept on employees?

A When they needed to be, yes. If I needed to make a phone call to a salesperson or anything, yes.

Q What were other reasons that you would need to get an employee's file?

A That would be the only reason; if I need to contact them.

Q Did you ever do a background check --

A No.

Q -- on an employee?

Nada Smith

Do you know if the sales manager ever did a background check on employees?

A No.

Q Do you know if your father ever did a background check?

A I don't know.

Q Who decided whether or not someone would be hired?

A The sales manager and my father.

Q Sales manager and your father?

A Mm-hmm.

Q You said you had a back office --

A Yes.

Q -- in the New York Motor Group?

A You would walk in and there's two offices. One is on the right-hand side and one on the left-hand side.

Q Where were you?

A When you walk in, it would be to the left.

Q And who was on the right-hand side?

A Julio Estrada. Those were the only two offices. And then there were desks in

the front.

Q There were no cars inside?

A No, no. It was a trailer.

Q A trailer?

A Yes.

Q So if I understand, the trailer was divided into three parts; an office on the far left, an office on the far right, and then desks in the middle of the space?

A Yes. And then there was a closet right next to my -- a huge storage closet next to my office.

Q Is that where files were kept?

A Yes.

Q Where did the sales manager sit?

A In the front. When you walk in, in the --

Q In the main space?

A In the opening, yes.

Q You said that's in the main space?

A Yes.

Q How many desks were in that main space?

A Three.

Q The sales manager and who else had desks in the main space?

A The accountant and the internet salesgirl.

Q Who was the accountant?

A We started off with a woman. She was a Spanish woman. I forgot her name. And then there was two different males after her.

Q Do you remember anybody's name?

A No, I'm sorry.

Q Then you said there was an internet salesgirl?

A Yes.

Q What was her name?

A We had different girls. There was one named Jennifer. There was one named Helen, if I'm not wrong.

Q What was their job?

A Answering phones. Making appointments -- well, helping me making appointments and phone calls. They would make phone calls to set up appointments with, like, their internet leads that would come in.

Q What do you mean by "internet

leads"?

A We advertise on the internet. So if a client saw the ad, she would make a phone call saying, "You're interested in the vehicle, would you like to come in and look at it?" and everything like that.

Q She would respond to people's inquiries about the ads?

A Yes.

Q Would people send in emails about the ads?

A Yes.

Q And make phone calls?

A Yes.

Q And the internet salesgirl would respond --

A Yes.

Q -- to both emails and phone calls?

Who did the internet salesgirl report to?

A To me.

Q To you? So you supervised her work?

A Yeah, we both worked together, so

we would report to each other.

Q You began working at New York Motor Group in October 2012?

A Correct.

Q So how many months did you work with Angel as the sales --

A Well, he was there until --

Q I'm sorry, excuse me. There's so many names and dates now. Give me one second.

You said Angel was the finance manager?

A Correct.

Q And we've established that his name was Angel Santiago?

A Correct.

Q So how many months did you work with Angel Santiago as the finance manager?

A Up until he left, so three months.

Q Was there any finance manager after Julio Estrada?

A No. I left, so.

Q You left December 2013, you said?

A Yes.

Q Would you ever sit in on -- strike

that question.

Were you ever present with Julio Estrada when he met with customers?

A No. He always told me to get out of the office.

Q Would you take orders from Julio Estrada?

A Yes. I mean when he told me to leave the office, I would leave the office.

Q Did he have authority over you?

A Well, he was a finance manager, yeah.

Q Why would he tell you to get out of his office?

A To speak with a client that he needed to speak to privately.

Q Would Julio give you papers related to the customers?

A He would give me, you know, the deal jacket to file.

Q Would he ever ask you to fax papers to anyone?

A Make copies, not necessarily -- I probably faxed once or twice something, but I

Nada Smith

don't usually fax anything for him. I just make copies.

Q What would you fax for him?

A If it was something I needed to fax to the bank.

Q What would be faxed to the bank?

A A contract. Or their license. Little stuff like that. Or if, you know, the bank needed something to be faxed, I would fax it. But I would see what the bank needed to be faxed, and I would go fax it.

Q So you would communicate with banks and finance companies?

A No. He would print out the paper from whatever bank it is and tell me, "This is what they need. Go get it from the deal jacket and fax it" -- he did that probably a couple times, not much.

Q Did you ever speak to any representatives for banks or finance companies on the phone?

A No.

Q Did you ever see Julio Estrada discuss financing with a customer?

A No.

Q Did he ever ask you to prepare any of the finance documents?

A No.

Q Did he ever ask you to prepare any documents?

A Just their insurance and stuff like that.

Q What do you mean, their insurance?

A Client's insurance for the vehicle.

Q What would you prepare?

A I would call the insurance

company, give the company the vehicle information, and get the insurance card ready. I did that a couple times. Usually the sales representative would do it. But if he can't get to it, I did it.

Q Were there any other documents that you prepared?

A Just made copies of the client's license. Like I said, the same thing. The salesperson usually would handle it, but if he can't, then I would.

Q Did you ever witness Julio Estrada request cash from a customer?

A Unless it was a downpayment that I received and deposited -- other than that, no.

Q So you had seen him take downpayments from customers?

A Usually when they give downpayments, they do that before they go in the finance office. They would give it to either the sales representative or the sales manager and then they would hand it over to me and I would go make the deposit in the bank.

Q So part of your work was to deposit money for the dealership?

A Yes.

Q What bank would you deposit that money into?

A Either Chase or TD. We had both. So either one.

Q So you did handle cash for the dealership?

A Yes, just that, just the downpayments.

Q Were you ever given actual cash?

A Yes. From the sales representative or the sales manager for the downpayment for the vehicle.

Q Where would you put the cash?

A I had a bank bag that had a lock, and I would bring it over to the bank.

Q So you would deposit cash with Chase or TD Bank?

A Yes. Or if there was a check, you know. Whatever the customer had.

Q What branch?

A It was in the Woodside area, so whatever the branch is over there.

Q Both Chase and TD Bank?

A Mm-hmm. They were both in Woodside, yes.

Q Would you walk or drive there?

A No, I would drive there or have someone drive me.

Q Was any cash ever kept in the dealership?

A No, I would right away deposit it.

Q How soon after it was given to you would you deposit it?

A At most, probably two hours.

Q So I just want to clarify. You said that you would drive to the bank to deposit the cash?

A Or have someone drive me, either/or.

Q So you would drive? You would drive a car?

A Yes.

Q Did you have a license at the time?

A Yes.

Q But you don't have a license at the moment?

A No.

Q Why don't you have a driver's license at the moment?

A Personal reasons.

Q Was your driver's license revoked?

A It's personal reasons. I would rather not say.

Q The question is: Was your driver's license revoked?

A I don't know.

Nada Smith

Q You don't know if your driver's license was revoked?

A I don't know.

MR. SIMON: What state are you referencing?

Q Did New York State ever revoke your driver's license?

A Once.

Q When was that?

A I don't remember.

Q Why did they revoke your driver's license?

MR. SIMON: I direct my client not to answer. It has nothing to do with the case.

Q When was your driver's license revoked?

A I don't remember.

MR. SIMON: I direct my client not to respond.

Q You don't remember when it was revoked?

MR. SIMON: Give me a chance to
object.

Nada Smith

Q You obtained your New York State identification card -- I'm sorry. This is Exhibit 1. I'm putting it back in front of you. It's your New York State identification card; correct?

A Mm-hmm.

Q This says that it was issued to you on December 23, 2013; is that correct?

A Mm-hmm.

Q So did you have a New York State driver's license in November of 2013?

MR. SIMON: I direct my client not to answer.

Q I'm sorry, what did you say?

MR. LANE: She started to answer, before you directed her --

MR. SIMON: I'm directing her not

to answer. So don't answer.

Q Have you ever been arrested?

MR. SIMON: I direct my client not to answer. If you want to ask has she ever been convicted of a crime, that's different, but under the Civil Rights Law of the State of New York you can't

ask someone if they have ever been arrested.

Q Have you ever been convicted of a crime?

A No.

Q Have you ever been arrested regarding fraud?

A No.

Q Did you ever receive complaints about Julio Estrada when you were at New York Motor Group?

A Toward the end, yes.

Q When was the end?

A The last few months that I was there. So between probably the end of August or beginning of September until I left.

Q How did you get the complaint?

A Either a phone call, and I would direct it to Julio; or a letter from Consumer Affairs, and I would direct it to Julio, because he was familiar with the issue.

Q What do you think is the first time you heard a complaint about Julio Estrada?

A I'm not sure, but I know that it

got really bad the last few months. That's the reason I left, because it was really too much.

Q Did you tell your father about the complaints?

A Yes -- well, not all of them, just the little ones. And, you know, I would tell him that I gave it to Julio to handle it, so we all assumed that he handled it.

Q Did you ever call the police on a customer?

A Once I had a client protesting in front of my dealership and I didn't know if he was allowed to or not, so I told them to please, you know, move. They wouldn't, and they were very rude to me, so I went ahead inside and called the police.

Q Do you remember who that was, who the customer was?

A I know it was a few Bengalis or Indians. One of them was -- I think one or two were clients that bought vehicles from the dealership.

Q Did Julio Estrada ever tell you to call the police on a customer?

A Well, when I went out there I was, like, I don't know what to do. He was, like, "Just call the police."

Q Julio told you to call the police?

A Yes.

Q Was there any time after that?

A No.

Q Do you know who Shehad Kazi is? S-H-E-H-A-D. K-A-Z-I.

A I think the first name sounds familiar.

Q Do you recognize that as a customer's name?

A I think so.

Q Do you know if the police ever came to New York Motor Group while Shehad Kazi was there?

A Can you tell me what vehicle they bought, or no?

Q Yes, sure.

MR. SIMON: Is this a relative of the customer, or the customer?

Q The vehicle that Shehad was dealing with was a Nissan Murano. If that jogs your memory, I will also tell you that his mother's name is Nasrin Chowdhury, and she was the purchaser of the vehicle.

A Oh, yes. And that was her son.

Q Her son -- Chowdhury's?

A Yes, yes. They came in a few times complaining and I directed them to Julio, because I couldn't help them. And Julio would handle it every time. Honestly, I don't remember if the police came or if they called the police maybe once. I don't really remember.

Q Okay, do you --

A But I know that clients did call the police a few times.

Q Customers would call the police?

A Yes. So, yes, probably most likely they did.

Q How many times do you remember the police -- strike that. How many times do you think the police came to New York Motor Group while you were working there?

A I'm not sure how many, but the last few months, a lot.

Nada Smith
Q More than five times?
A Yes.
Q More than ten times?
A Probably.
Q In the last few months that you were there, is it possible that police were coming at least once a week?
A Probably once every two weeks.
Q At any time while you worked there when Julio Estrada was there, did he ever tell you to make a refund to a customer?
A If it was a downpayment and they paid by credit card I could have done it, yes. And if it was cash I would call to verify with my dad to give them the downpayment -- you know, to make sure that it was the correct amount that we received, and to make out a check.
Q Would you make out money orders?
A No, never money orders.
Q So you never made out a money order for anyone?

A I don't --

MR. LANE: Let me rephrase that.

Nada Smith

Q Did you ever make out a money order to provide a refund to a customer?

A Me, no.

Q Would others make out money orders --

A Julio has done that.

Q Let me finish the question.

Would others make money orders to provide refunds?

A Yes.

Q Who would do that? Who would make the decision about whether or not a refund would be issued?

A My father and I.

Q So if Julio wanted a refund made, he would have to talk to you about it?

A Well, for the downpayments, you

know, for the downpayments only. That's all I handled. I found out later on that he was taking money for himself, but that refund I was not responsible for, because that was not money coming into the dealership. He handled those refunds. He didn't have to answer to me.

Q Which refunds? I'm sorry, I'm

very confused.

A That are not downpayment-related.

Q So there were times when you and your father would talk and would decide that you would return a customer's downpayment?

A Yes.

Q Why would you return a downpayment?

A If the customer had an issue with the vehicle we would, you know, buy it back, basically.

Q What were other refunds that a customer would ask for?

A Julio was doing -- you know, I found out later on, not while I was working, I didn't know while I was working -- that he was taking money from clients. That's why I'm saying the last few months were really bad, because that's when I found things out, you know. The clients would come complain to me, telling me that they gave Julio "X" amount of money, and they would ask me about it. I didn't know about it, because all I was aware of was the client's downpayment. And they

would come complain to me. I would call Julio or direct them over there. He handled their complaint, so I'm guessing he gave them the money back, or I don't know what he did, but he handled the complaint with that.

And that one -- I think he did, if I'm not mistaken, give money orders to that client.

Q To?
A The Nissan Murano.
Q To Shehad Kazi?
A Don't quote me. I'm not too sure, but I think so. But I know one time he did make -- I don't know if it was once, but I know he did make a money order to a client.
Q When people would complain that they did not get what they were promised and they wanted their money back, if it wasn't about a downpayment, you would send them to Julio?
A Yes.
Q Would you then discuss with your father that people were making those kinds of complaints?

A That they wanted their money back?
Q That they wanted their money back, because they didn't get what Julio promised them.

A I would report to my father, but he told me to let Julio handle it, since he knows the finance and the client and everything.

Q Do you know if your father would ever follow up with Julio on that?

A He did a few times.

Q Would you ever follow up with Julio?

A Yes.

Q On those complaints?

A Yeah, and he always told me that he handled them and everything was fine and everything was okay.

Q Did you ever witness Julio tell a customer that if the customer would provide him with money on that day, he would refinance their loan?

A No, I never witnessed that.

Q Did you ever see a customer leave

the dealership to go to a bank and come back with money and hand it to Julio?

A No, if the client left, I didn't ask him where he was going.

Q I'm just going to show you some documents here.

MR. LANE: We're going to mark these. We're going to bundle them together and mark them as Plaintiff's Exhibit 3. There's no reason to separate them -- I take that back, I am going to separate this. So this is going to be marked as Plaintiff's Exhibit 3.

(Two-page document entitled "NYC Department of Consumer Affairs Notice of Hearing" is marked as Plaintiff's Exhibit 3 for identification, as of this date.)

Q We are going to put this in front of you. Just take a look at it and let me know if you recognize the document.

A Yes.

Q Can you look at the second page.

Nada Smith
A Mm-hmm.
Q Is that your signature at the bottom?
A Yes.
Q What is that document?
A That's Consumer Affairs. This is I think one of the inspections that the lady came.
Q When you signed this document at the bottom of page two, did you sign in the area marked for "Respondent"?
A Yes.
Q And did you indicate that your title at the dealership was "manager"?
A That's not what I told her. I told her I was the owner's daughter, so she said just to put down "manager."
Q You put "manager" at the advice of the Department of Consumer Affairs investigator?
A Well, she asked me who I was. I told her I was the owner's daughter -- I was

going to write, you know, that -- and she said,
"Just put down 'manager.'"

Nada Smith

MR. LANE: I'm going to mark this as Exhibit 4.

(Two-page document entitled "NYC Department of Consumer Affairs Notice of Hearing" is marked as Plaintiff's Exhibit 4 for identification, as of this date.)

MR. LANE: Let's go off the record.

(A discussion is held off the record. Time noted: 12:19 p.m.)

(A brief recess is taken.)

oOo

Q On Exhibit 3, you indicated that you did sign that document?

A Yes.

Q And you identified yourself as the

manager. Did you ever tell anybody that you were a manager of New York Motor Group?

A No.

Q Did you ever tell anyone that your title was anything other than "office assistant" at New York Motor Group?

A I never told anyone my position.

Nada Smith

Q Did you ever tell anyone that you were the controller for New York Motor Group?

A No, I don't recall.

Q I'm going to show you another Department of Consumer Affairs document. It's marked as Exhibit 4. Could you take a look at that?

A Mm-hmm. Okay.

Q Do you recognize that?

A Yes. It was the other inspection paper that the lady came in with. I'm pretty sure it was a lady.

Q Did you sign the second page of

that document?

MR. SIMON: I just want to look at it.

Q Did you sign the second page of that document?

A Yes.

Q Of Exhibit 4?

A Yes.

MR. LANE: I want to give your counsel a copy, so you can have the exhibit in front of you. Okay.

Q Did you sign that document on behalf of New York Motor Group?

A Yes.

Q When you signed that document, did you identify yourself as the controller?

A No, I told her I handled office work.

Q Why did you write "controller"?

A She said that's a controller position.

Q I just want to go back and make sure I'm understanding the full scope of your role at New York Motor Group.

MR. LANE: Strike that.

Q So while you were at New York Motor Group, you did speak with investigators for the New York City Department of Consumer Affairs?

A Yes.

Q Do you have a sense of how many times you spoke with the New York City Department of Consumer Affairs investigator?

A Those two times when they came.

Q Were there any other times?

A I don't remember, honestly.

Q Were there ever any other complaints -- not just Department of Consumer Affairs investigations, but any other

complaints from anyone about the dealership during the time you were working there?
A Like from clients?
Q From customers.
A Yes.
Q Were there complaints from customers in the fall of 2012?
A No.
Q Were you aware of any complaints about Angel Santiago?
A No.
Q You had said that there were many complaints in the last few months?
A Mm-hmm.
Q But did you ever receive complaints prior to that?
A Prior?
Q Prior to that.
A If I did, I don't remember. It was probably, like, once or twice or a few

times, but I wouldn't -- it wasn't to the point where I would remember. It wasn't as bad.

Q So it's possible, though, that there were complaints before the summer of 2013?

A I'm not sure, because all the complaints that came in, like I said, I handed them to Julio. So if there were --

Q Would you make any record of the complaints?

A No. Not until the last few months, like I said.

Q What record would you make of a complaint?

A Oh, it was just in my mind, it wasn't paper or anything like that.

Q The other thing is you've testified that you didn't receive any payment for your work while you were at New York Motor Group; is that right?

A Correct.

Q And at the time, you were living with your father?

A I was living at home. If I needed

Nada Smith

anything, my father was right there. You know, food was there. I had a roof over my head.

Q Would your father give you cash?

A I don't know. I don't remember. He just -- if I needed money he would give me money.

Q Would he generally give you cash?

A I don't remember. He has cards, he has cash, he has everything, so whatever.

Q Did you have a bank account?

A Yes.

Q Would you take money that your father gave you and put it in a bank account?

A Yes.

Q Would you use that money to buy food for yourself?

A I lived at home. There was food there.

Q Would you use that money to buy clothes for yourself?

A It was my personal money.

Q I understand. Do you have a sense

of how much money your father gave you --

A No.

Q -- in 2013?

What bank did you deposit your money in?

A I don't remember, honestly, if it was -- I don't remember which bank it was, honestly. I'm sorry.

Q Did you have more than one bank account?

A No.

Q Was it in Queens?

MR. SIMON: Note my objection to the questions about my client's personal bank account.

MR. LANE: Why? What is the basis for the objection?

MR. SIMON: I'm trying to figure out what the relevancy of the questions are. She's living at home -- she testified -- with her parents. Her parents are taking care of her. Her parents are giving her a car. Her parents are paying for everything.

MR. LANE: This is a lawsuit where there are allegations of fraud and

dishonesty. And Ms. Smith has testified that she didn't make any income and didn't file taxes for almost two years, and now she is testifying that she received money from her father on a regular basis and deposited it into a bank account.

MR. SIMON: He paid for her wedding.

MR. LANE: It is extremely relevant, because I believe it goes to honesty if she is being paid large sums of money or any sum of money, using it, and then not filing taxes. So that's entirely relevant.

*RQ We're going to call for the production of information related to where she banked, and how much money she was paid by her father during the time she worked at the New York Motor Group.

MR. SIMON: If her father pays for her wedding, that's taxable to her, you believe?

MR. LANE: I'm not talking about

whether or not the father pays for the wedding -- we are on the record. I was talking about the money she was paid on a regular basis, which she said that she deposited in the bank.

THE WITNESS: I never said I was paid on a regular basis.

MR. SIMON: Let's go back on the

record.

MR. LANE: We were on the record the whole time.

THE WITNESS: I never said I got paid on a regular basis.

Q How often did your father give you cash?

MR. LANE: I'm sorry, strike that.

Q How often would your father give you money when you worked at New York Motor Group?

MR. SIMON: Objection to the form of the question. I believe she lived with both parents.

Q The question was how often your father gave you money?

A It wasn't only my father.

Q How often did your father give you money when you worked at New York Motor Group?

A A little bit, you know. Whenever

I asked him, he gave it to me.

Q How often would you ask him?

A I don't know. Whenever I needed it. It wasn't weekly or daily or anything like that, though.

Q Would you ever ask your stepmother for money?

A Yes.

Q And she would give you money as well?

A My dad's card or her card, you know.

Q Would she give you cash?

A No.

Q While you worked at New York Motor Group, was your stepmother the owner of Planet Motor Cars?

A I don't know who the owner of Planet Motor Cars is. I told you that.

*RQ MR. LANE: Again, I am going to

reiterate that we are going to call for information about money paid by Mr. Eltouby or his wife to Ms. Smith during the time she worked at New York Motor Group; and information related to where this money was deposited, into which banks.

Q Again, I just want to be clear on this.

MR. LANE: I'm sorry, just give me one second.

MR. SIMON: You have to remain quiet. Let him finish his questions.

MR. LANE: We are on the record.

Q So again, to be clear, you have testified that your father did pay you money while you were working at New York Motor Group?

A No. I lived at home. My father supported me. I was not paid while I was working at New York Motor Group. If I needed money, I would ask my dad for it. I lived at home. He supported me.

Q Again, how much money do you think your father gave you during 2012 and 2013?

Nada Smith

MR. SIMON: Note my objection to the form of the question. You mean if she went out and bought a dress and used the father's credit card or the mother's credit card? Is that money that they're paying her? I don't understand the question.

MS. LINDERMAYER: If she understands -- we noted your objection. If she understands the question.

MR. SIMON: Then I will object to the form of the question, because you're saying "How much did they pay you?"

MR. LANE: Okay.

Q How much money did you receive from your father during 2012?

MR. SIMON: Note my objection to the form of the question. It may have been money that was paid to a retail store.

MR. LANE: You have objected to the form.

Q If you understand my question,
please answer it.

MR. SIMON: I'm objecting to the whole line of questioning. We are not accepting any more of these questions.

MR. LANE: Are you ordering her not to answer questions about payments made to her by her father?

MR. SIMON: She already did.

THE WITNESS: I never received any payments.

MR. LANE: Okay, I think we should get the magistrate on the phone.

MR. SIMON: Do you want to wait until we finish, until the end? Do you want to continue with any more questions or do you want to interrupt right now?

MR. LANE: Do you want to table it?

MS. LINDERMAYER: Yes.

MR. LANE: That's right. We are going to table this question for the magistrate and we'll get him on the phone before the end of the day.

MR. GROSSMAN: Counsel, may I ask you a question before you go to another

line of questioning?

MR. LANE: Sure.

MR. GROSSMAN: For logistical purposes, are we going to take a half-hour break for lunch or are you planning to go straight through?

MR. LANE: We will take a break. Because you're going to ask questions.

MR. GROSSMAN: When you're done, yes.

MR. LANE: Bob, do you plan to ask questions of Ms. Smith?

MR. BRENER: I don't believe so.

MR. LANE: It's quarter of one. How about we go to 1:15?

MR. GROSSMAN: Whatever you want.

MR. LANE: I'm sorry, I've gotten a little disorganized and lost track of my outline here.

MS. LINDERMAYER: I'm sorry, Richard, please don't coach your client during this deposition.

MR. SIMON: I object to your directive. I mean, we're taking a break

in the deposition.

MS. LINDERMAYER: You're still not allowed to coach your client about how to answer questions.

MR. SIMON: I'm not coaching. We're just discussing, we're trying to figure out exactly how old she was that year.

MS. LINDERMAYER: So you're helping her figure out the answer to the question?

MR. SIMON: No. I'm trying to figure out the answer to the question, because we're going to discuss this with the magistrate. I've got to say, "Judge, she was the blank-year-old daughter of the owner." I'm preparing for the discussion with the magistrate. I'm not coaching my client.

MR. LANE: Back on the record.

MS. LINDERMAYER: That was on the record, we have been on the record.

MR. LANE: So we have never been off the record. Wonderful.

Nada Smith

Q When you worked at New York Motor Group, how many hours a day would you work there?

A I was there all day.

Q Roughly how many hours a day?

A It depends. Sometimes I went in to work at 11:00, 10:00. And I left around 7:00 or 7:30.

Q What were the business hours for the New York Motor Group?

A 10:00 to 8:00 or 9:00 to 8:00, one of them. I'm not sure.

Q How many days a week would you work there?

A Monday through Saturday.

Q Was the dealership open on Sunday?

A Yes.

Q You would not work on Sunday?

A No.

Q I'm sorry, you said that you came in generally at 10:00 or 11:00?

A Mm-hmm.

Q And the dealership's hours were 10:00 to when?

A Eight -- 7:30 or 8:00.

Q Who would open the dealership?

A We had someone that opened and closed. His name was Juan.

Q Juan?

A Yes.

Q What was Juan's job?

A Porter -- well, not really porter. He just handled the dealership outside. Took care of the dealership outside of the vehicles, cleaned the vehicles, and everything like that.

Q I've asked you about Hillside Motors before, and you indicated that you did not work there?

A No.

Q You also indicated that someone in your family owns Hillside?

A To my acknowledgment, yes. I don't know who owns it exactly.

Q If you were ever speaking to a customer who was complaining about New York Motor Group, did you ever send them to go speak to people at Hillside Motors?

A No.

Nada Smith

Q Do you know anyone who works at Hillside Motors?

A No.

Q Did you ever know anyone who ever worked at Hillside Motors?

A My sister for a little bit, but that's it.

Q Which sister?

A One of my sisters.

Q What is the name of your sister who worked at Hillside Motors?

A Menah. M-E-N-A-H.

Q M-E-N-A-H?

A Mm-hmm.

Q When did she work at Hillside?

A She was in and out a lot. I'm not sure.

Q Do you know what she did at Hillside?

A Internet sales.

Q Is she younger or older than you?

A Younger.

Q Do you know how old she is now?

A Twenty-two.

Nada Smith

Q Is she working there now?

A No.

Q You had said that filing the deal documents was a big part of your job?

A It was a part of my job.

Q Part of your job. So are you familiar with documents that would be in the deal folders?

A I would say so.

Q I'm going to show you some documents from some of the transactions in these cases. I will just ask you some questions about them.

MR. LANE: I'm going to mark this as Plaintiff's Exhibit 5.

(One-page document is marked as Plaintiff's Exhibit 5 for identification, as of this date.)

Q Take a look at that document. Do you recognize that document?

MR. SIMON: I just want to take a look at it.

A It looks familiar.

Q Is that a document that someone at

the dealership would usually sign?

A I believe so, yes.

Q Do you recognize either signature at the bottom of the document?

A I believe that's Julio's.

MR. SIMON: Pointing to the middle bottom.

MR. LANE: The witness is pointing to a signature at the middle bottom of Exhibit 5.

Q So that looks like Julio Estrada's signature to you?

A I think so, yes.

MR. LANE: I'm going to show you another document. We will mark it as Exhibit 6.

(One-page document entitled "Guarantee of Title" is marked as Plaintiff's Exhibit 6 for identification, as of this date.)

Q I'm going to put Exhibit 6 in front of you. Do you recognize that document?

A Yes.

Q What is that?

A Guarantee of title. I'm not sure what it's for, but I recognize the paper.

Q You recognize it as a document that was usually a part of --

A A deal.

Q -- deal folder?

Now that it's back in front of you, is that a document that the finance

manager would usually sign?
A Yes.
Q Do you recognize the signature in the bottom half of the document?
A Yes.
Q Whose signature is that?
A Julio's.
Q Would you say that the signature on Exhibit 6 and the signature that you identified in Exhibit 5 look completely different?
A Yeah. I think that's Julio's. He usually signs all the paperwork, so I think it is his.
Q What do you know about the relationship between New York Motor Group and

Planet Motor Cars?
A I don't know any relationship.
MR. SIMON: You have to say it louder.

THE WITNESS: Sorry.

A I don't know the relationship.

Q Did you ever notice if documents created at New York Motor Group were going out --

MR. LANE: I'm sorry, strike that.

Q Did you ever notice if documents created at New York Motor Group indicated that Planet Motor Cars was the seller of the vehicle?

A Honestly, I never noticed.

Q Did you ever sign transaction documents?

A Some bank documents like this, that needed to be to sent -- like Exhibit 6.

Q You would sometimes sign documents like Exhibit 6?

A Yes, that belonged to the bank. And I would just sign it sometimes. It happened a couple of times that I would sign it, and I would put my name.

Q When you would sign those documents, would you indicate your title or position?

A No, I just left it blank. I think I left it blank. I don't remember them, but I remember signing them.

Q Did you ever just sign your name to blank documents that had nothing else written on them?

A I don't remember. I don't think so.

Q Did you ever complete documents for a customer after they had already bought the car and left the dealership?

A No.

Q Did you ever sign documents and indicate that Planet Motor Cars was the seller of the vehicle?

A No.

MR. LANE: I'm going to have this exhibit marked as Plaintiff's Exhibit 7.

(One-page document entitled "New York State Department of Motor Vehicles,

Nada Smith

Odometer and Damage Disclosure Statement" is marked as Plaintiff's Exhibit 7 for identification, as of this date.)

Q Did you ever see "Planet Motor Cars" listed on any paperwork?

A Yes.

Q When?

A On DMV paperwork.

Q Why would "Planet Motors" be on DMV paperwork?

A I never questioned that.

Q Who would write that information onto DMV documents?

A I did.

Q Why would you write that information on DMV documents?

A Because Julio told me to.

Q Do you recognize Exhibit 6?

A Mm-hmm.

Q I'm sorry, Exhibit 7. What is that?

A Odometer and Damage Disclosure Statement.

Nada Smith

Q Would you often sign Odometer and Damage Disclosure Statements?

A Yes.

Q Would you always sign them?

A No.

Q Who else would sign them?

A Julio.

Q Why would you sign them?

A Because I was filling out DMV paperwork.

Q Why would you sometimes fill out DMV paperwork?

A Because I would.

MR. GROSSMAN: I didn't hear the answer.

THE WITNESS: Because I would.

Q Did anyone direct you to fill out

DMV paperwork?

MR. SIMON: Note my objection to the form of the question -- the phrase "DMV paperwork." Could you be more specific, counselor?

MR. LANE: Sure.

Q Were you ever told by someone to

fill out Odometer and Damage Disclosure Statements?

A Yes.

Q By who?

A Julio.

Q Did your father ever tell you to fill out Odometer and Damage Disclosure Statements?

A No.

Q Were you ever told to fill out any other documents in a transaction?

A Sometimes. I don't remember what exactly.

Q When you completed the document, would you sign it?

A I would follow up with Julio and he would instruct me to sign it.

Q Would you ever complete a document and not sign it?

A I would have -- I don't remember, honestly.

Q You're looking at Exhibit 7?

A Yes.

Q Did you fill out Exhibit 7?

A Yes.

Q I'm going to go line by line on this, because I'm curious. Looking in the box at the bottom, at the top left-hand corner of the box it states "Vehicle Year." I'm going to go left to right. Just tell me if that's your handwriting in the box.

"Vehicle Year"; is that your

handwriting?

A Yes.

Q The "Make"; is that your handwriting?

A Yes.

Q The "Model"; is that your handwriting?

A Yes.

Q "Body Type"?

A Yes.

Q "Vehicle Identification Number"?

A Yes.

Q Is that your signature at "Seller's Signature"?

A Yes.

Q Is that your handwriting at

Nada Smith

"Seller's Name"?

A No, it doesn't look like it -- well, probably, yeah.

Q So you wrote in "Planet Motor

Cars"?

A I believe so. I mean, I've filled out a few of these, and what I'm told to fill out, that's what I fill out. If it wasn't me, it was Julio.

Q Did you write the address on the next line down?

A Yes.

Q Did you put in the information for the new owner, including her name, her mailing address, and city and state that's all listed there?

A Yes. The dates, that's not my handwriting.

Q Okay.

A And neither is the town. The city and town -- Jamaica -- that's not my handwriting.

Q All right.

A The more I look at it, the name of

the dealership, that's my handwriting.

Q I'm sorry?

A The more I look at it.

Q The name of the dealership?

A Yes.

Q That's your handwriting?

A Yeah.

Q Would you ever change a document after the sale of the car?

A No.

Q Did anybody ever instruct you to change information on a document?

A I don't remember.

MR. LANE: Can we go off the record for five minutes? I just want to talk with Mr. Tuhin's counsel, and then we'll come right back on the record and figure out what we're going to do. Just give me five minutes.

MR. GROSSMAN: Sure.

(A discussion is held off the record.)

oOo

MR. LANE: We're back on the

Nada Smith

record. For the moment I believe I'm done with questions on behalf of my five clients.

Why don't we break for lunch and then Mr. Keshavarz is going to have some follow-up questions on behalf of his client, Plaintiff Tuhin. So we'll take a half-hour lunch break.

(Luncheon recess is taken from 1:18 to 2:06 p.m.)

oOo
AFTERNOON SESSION
oOo

EXAMINATION BY MR. KESHAVARZ:

Q Good afternoon. My name is Ahmad Keshavarz. I'm one of the attorneys for Mr. Tuhin, one of the plaintiffs in this case. I missed the very beginning part of the deposition.

How do you like to be addressed? I know you got married.

A Yes. "Mrs. Smith."

Q Mrs. Smith, thank you.

I will just follow up on a few

questions by opposing counsel. Let's talk about the money that you made while you worked at New York Motor Group.

Actually, let's first talk about the deposits at the bank. If I understood correctly, if New York Motor Group would get cash deposits, you would put that in a locked bag at the dealership; correct?

A I kept it in a drawer until it was time to go and make the deposit. But I went as soon as I can.

Q So how was the cash secured?

A It was locked.

Q In a drawer?

A Yes.

Q Were you the only one who made cash deposits?

A Yes.

Q What banks did you make the cash deposits at?

A Chase and TD.

Q Did New York Motor Group have any accounts anywhere other than Chase or TD Bank --

A No.

Q -- at any time that you worked there?

A No.

Q Which of the two banks would you make deposits at? Chase or TD?

A It depends. Either/or.

Q Go ahead.

A Just to keep the balances up, you know.

Q When you say "It depends" and "To keep the balances up," what do you mean?

A Whichever bank needed it, the

deposits. You know, I would check the balance and whichever bank needed the deposit, I would go deposit it.

Q Whose name were the accounts under at Chase and TD?

A New York Motor Group.

Q The corporation?

A Yes.

Q Was there only one account at Chase and only one account at TD Bank?

A Yes.

Q Were there any other accounts that New York Motor Group used, other than those two accounts -- one at Chase and one at TD Bank?

A No. It was an LLC. It wasn't a corporation, sorry.

Q You've been going to law school.

MR. SIMON: You have to keep your voice up so everybody can hear. Can you read back that last answer, because I couldn't hear it, and I'm sitting right next to you.

(The record is read back by the reporter.)

Q Would all of the payments made on behalf of New York Motor Group come out of those two accounts -- the one at Chase and one at TD Bank?

A Yes.

Q Would they come out of any other source other than the one account at Chase and the one account at TD Bank?

A No.

Q Do you know what a floor planner is?

A Yes.

Q What is a floor planner?

A If I'm not mistaken, it's a company that provides vehicles for a dealership.

Q And New York Motor Group used a floor planner?

A Yes.

Q Were most of the cars at New York Motor Group floor-planned?

A Yes.

Q Were all the cars at New York Motor Group floor-planned?

A If they weren't trade-ins, they were floor-planned.

Q Who were the floor planners that New York Motor Group used?

A We had a few. We had -- I'm trying to think of the name. Hold on. I know one of them was Palisades. The others --

Q Take your time.

A Sorry -- Next Gear, there we go.

MR. SIMON: I didn't hear that. Could you say that again?

Q Was it "Next Gear"?
A Yes. It was Next Gear.
MR. SIMON: Max Gear?
THE WITNESS: Next Gear.
Q Did New York Motor Group use any other floor planners other than Palisades and Next Gear?
A Not that I remember. I don't think so.
Q I'm sorry, I asked you this a minute ago and then I got turned around when I nailed down the names of the floor planners. Tell me again what a floor planner is?
A I'm not sure if this is the right definition for it, but to my acknowledgment it's a company providing a dealership with vehicles to floor-plan.
Q They have a lien on the vehicles?
A No, they don't have a lien on the vehicles. We make payments for the vehicle until we pay the vehicle off, and if the car is sold we pay the vehicle completely off.
Q So the floor planner gets paid by checks from New York Motor Group?

Nada Smith
A No. It was -- they had the bank information and we would get, you know, notified that this payment is coming out this time. And we would be aware of it.
Q So there would be electronic transfers?
A Yes.
Q Would those electronic transfers to the floor planners all come out of those two accounts? One at Chase and --
A Either/or, yeah.
Q You did what most human beings would do; you anticipated the rest of my question.
A I'm sorry.
Q Don't be sorry. You have never been deposed before; right?
A No.
Q We do this for a living, so don't be sorry. So the record is clear, try to wait until I finish asking the question before you answer, even if you expect that you understand

the rest of the question.

A Okay.

Nada Smith

Q Because the court reporter is taking notes.

A Okay.

Q And the other thing is, it's also common to nod your head or shake your head or say "mm-hmm" to answer a question. But because she's taking notes, it's important for you to verbalize your answers. Say "Yes" or "No."

A Okay.

Q So the floor planners would get paid by automatic direct withdrawals from the Chase and TD Bank accounts?

A Yes.

Q And they would make deposits automatically to those accounts?

A I would make the deposits to the accounts. They don't make deposits to the account. The floor planner withdrew the payments, and whenever the vehicle was sold, I would select -- it was all on the computer.

Q Yes.

A When it was sold, I would select the vehicle and completely pay off the vehicle, and they would withdraw it then -- either the

next day, or whatever day that was selected.

Q When you say "electronically," what do you mean?

A They had the bank information, so it -- it withdrew.

Q Did you have some sort of electronic interface with the floor planners?

A I don't know what you mean by that.

Q When you said you would go online and it was withdrawn, I guess I wasn't clear what you meant by that.

A They had -- the account

information was inputted in their system. So whenever the payments came up, they notified us, withdrew the money.

Q Thank you.

The deposits into the New York Motor Group account at Chase and TD Bank -- one source of the deposits would be the cash deposits that you would make; correct?

A Either cash or check, or however the client put the downpayment.

Q So you would be the one who would

make the deposits for all downpayments to New York Motor Group regardless of whether it was by cash or check; correct?

A Correct.

Q No one else would do that?

A No.

Q Who had the authority to write checks -- or withdraw electronically, I

guess -- from the New York Motor Group accounts
at Chase and TD Bank?
A My father and I.
Q Anyone else?
A No.
Q Did you have to have permission
from your father before you had the ability to
write a check?
A Oh, yes, of course.
Q Are you an authorized signator on
those accounts?
A Yes.
Q By the "ability," I meant that
your father didn't have to countersign checks;
did he?
A No. I had to call him and let him

know.
Q Let him know what?
A That I was either going to write a
check, or whatever was coming in and out of the

accounts.

Q What were the major checks that you would be writing from the accounts?

A Just payments for our services. Like little small bills, like our internet bill and stuff like that. And our guy that goes to DMV, for our paperwork and stuff like that.

Q Would you write any other types of checks from those accounts?

A Just refunds. If they came in to return their vehicle, and they came in before the vehicle was funded or anything like that.

I mean it was like, you know, their five-day-prior period or whatever it is they came in. Or if they decided not to buy the vehicle and they put, like, a hundred dollars or whatever to hold the vehicle -- "Oh, I need the refund" -- and we'd write them a check.

Q Other than refunds and the small

bills -- the internet bills and so forth -- were there any other reasons that you would write checks out on behalf of New York Motor Group?

A No.

Q Never wrote any checks to finance companies or floor planners yourself?

A Floor planners? No. Like I said, it was electronic, yeah.

Q Would you write checks to other dealerships, for example?

A No.

Q Would you write checks to pay off liens on trade-in vehicles?

A Yes.

Q You would do that on a pretty regular basis, I take it?

A Whenever a customer traded-in a vehicle, yes.

Q Particularly when a customer traded-in a vehicle, there was a lien that needed to be paid off?

A Yes. And I would pay it off.

Q Did you have to call your father

Nada Smith

and get approval every time a lien got paid off?

A Yes.

Q So was you father at the dealership, generally speaking, when you had to get approval to pay off liens?

A No. I would have to call him and give him the information and he would okay it.

Q Would he not generally be at the dealership?

A No.

Q By "the dealership," I mean New York Motor Group.

A Yes.

Q So, no -- he would not generally be at New York Motor Group?

A No, he wouldn't.

Q That one was not your fault; that was all my fault. That was a badly asked question, sorry.

So when you worked at New York Motor Group, where was your father physically, if he was not there generally? Where was he physically? Was he at another dealership or

Nada Smith

did you know?

A I don't know.

MR. SIMON: Just a question: These areas were covered when you were not personally present. If you want to go over them again, be my guest.

MR. KESHAVARZ: Okay.

Q There's another dealership -- Planet Auto, I think?

A Planet Motors.

Q Planet Motors. They're not my client. I don't have a case against them. But I'm just wondering: Did Planet Motors have their accounts at Chase and TD Bank?

A No.

Q Do you know where they have their accounts?

A No.

Q Were you involved in Planet Motors at all?

A No, not at all.

Q Was your sister involved with Planet Motors?

A She worked there for a little bit

and left.

Q Do any other family members work at Planet?

A Overall?

Q Yes.

A I had my deceased brother that worked there for a little bit.

Q I'm sorry, I apologize. Anyone else?

A No.

Q The two floor planners, Palisades and Next Gear; do you know which bank the money was transferred to and from on their end, or do you not know?

A I'm sorry, can you repeat that?

Q Sure. So there were automatic payments going between New York Motor Group's account and the floor planners?

A Yes.

Q Do you know in what banks the monies were being deposited on behalf of the floor planners?

A One was using Chase and the other started using TD. Palisades started using TD,

if I'm not mistaken.

Q Did Palisades use another bank, other than TD, for a period of time when they were doing business with New York Motor Group, if you know?

A They were using Chase. And then they started using TD once we opened TD accounts.

Q There were some discussions before about arrests, and you said there were personal issues. I don't want to go into personal issues. If there's DWIs or family issues, I don't care to go into that. But I'm just wondering aside from that type of thing, were there arrests for allegations of forgery or theft or anything like that?

A No.

Q Other than personal issues like DWIs or family issues, for what other reasons were you arrested?

A I wasn't.

MR. SIMON: I object to the form of the question.

Q So the only issues are personal

issues like that?

A It's just -- no. There's never.

Q No arrests?

A Like related like that, no.

Q No arrests other than -- if any -- a personal matter like a DWI or a domestic issue; right?
A Correct.
Q That's all I need to know. I don't need to go into the personal issues, it's not relevant.
There was a document with the name "Planet Auto" before that was handwritten in your handwriting; remember?
A Correct.
Q How often did you write in the name "Planet Auto" on a document? "Planet Motors," excuse me.
A I don't remember how many times.
Q Was it fairly regular?
A It would be here and there. It wasn't a usual thing.
Q Maybe once a week?
A I don't remember, but it was few

times.

Q For the entire time that you were there?

A Yes.

Q The other thing about deposits at banks; what bank did you have during the time that you worked at New York Motor Group?

A I had an account with Chase.

Q And that was under your name?

A Yes.

Q Did your father give cash that you put into the Chase account?

A At times when I needed, if -- when I asked him.

Q And roughly a hundred dollars here, two hundred dollars there, that type of thing?

A Yes. It wasn't anything crazy.

Q Nothing over a thousand dollars?

A Oh, no, no -- I wish.

Q Did he deposit any checks from him or the dealerships on a regular basis?

A From the dealership to me?

Q Yes.

Nada Smith

A No, never.

Q Did he ever write checks that you had deposited into your own account?

A His personal check. I think it was once that that happened.

Q Roughly over $10,000?

A No, no. Probably two hundred dollars, I believe.

Q Did he ever pay any major bills that you might have, like cars?

A Yeah.

Q Did he purchase a car for you?

A No. I used his car or my mother's car.

Q Anything else? Anything major that he paid, like giving you a car to use or anything significant?

A No. I didn't have much. I lived at home, so it was just the car. The phone I paid for -- well, he paid for, because I asked him for money for it.

Q You told me before about a

protest. I think you said that you believed they might have been Bengali?

A Yes.
Q Does that sound right to you?
A I believe so.
Q Do you know if there was a protest that Mr. Tuhin was at; do you remember?
A I'm sorry, can you repeat that?
Q Do you know if Mr. Tuhin was at that protest?
A I think he was at one. They came twice. I think he was at one of them -- I think, yeah. And then another, I don't remember the other client, honestly. Maybe if the name comes up, maybe I'll remember it, but right off the top of my head I don't remember it.
Q So let's talk about the first protest. What happened there?

A They all came and they were standing outside and they started protesting, "New York Motor Group, fraud, fraud, fraud." They kept saying, "New York Motor Group, fraud," over and over again. I didn't really understand what was going on. I went outside to try to talk to them. They were very rude to

me. They told me to go away, and that they were allowed to do this and everything. I went back in. I asked Julio what should I do. He told me this, and what is my next move. He said, "Call the police, because unless they have a permit they're not allowed to protest." I said "Okay."

I called the police. They came. And they were apparently allowed to do it, because it was under a certain number or something like that, and he said, "Just let them go on and do what they have to do, and they'll leave by the end of the day or whenever they leave." So I just let them be.

Q Did anything else happen at that first protest?

A I don't remember if it was the first or second, honestly.

Q All right. We'll talk about the second one in a minute, if you're not sure which protest we're discussing now. But from what you do remember of the first protest, was your father at the first protest?

A Well, I don't know if it was the

first or second. But I know that one of them, he stopped by, because he had just purchased a vehicle or something and he came to drop it off, saw what was going on, walked over to them to try to calm them down and try to talk to them. I know that he did calm them down, because the protesters -- one of them -- said, "All right, let's walk over to 7-Eleven and talk." So they walked over there and they talked and they seemed to come to an understanding. I believe that was the second one that that happened.

Q By "they," you mean your father?

A And the protester.

Q Was there more than one protester that went to the 7-Eleven with your father, if you know?

A I don't know. I wasn't present. He just told me that's what happened.

Q Do you know if Mr. Tuhin was one of the people that was speaking with your father?

A Yes.

Q Did you hear any of that

conversation yourself?

A No.

Q Did your father tell you about that conversation?

A No. He just said that they came to an understanding, and he shouldn't bother us anymore.

Q But he didn't explain further?

A No.

Q There's an allegation somewhere in one of the complaints about a hose being used on the protesters. Is there a hose at New York Motor Group?

A Yes. I have Juan, he cleans the cars outside. But I know for a fact that none of them would spray down anyone with the hose.

Q His name is Juan?

A Juan.

Q Do you know his last name?

A No. He never told me.

Q The protesters were on the public sidewalk?

A Yes.

Q Would the hose be something that

could be used to spray at a distance onto the public sidewalk?

A No. It only sprayed onto the vehicles on the dealership, never outside of the premises of the dealership.

Q So it doesn't have the physical capacity to spray onto the sidewalk? Or do you know?

A I don't think so.

Q Do you know if there are extensions to the hose?

A He used one extension to get to the vehicles in the front. But it didn't reach all the way to the front, to get to the sidewalk.

Q So as far as you were aware, was there any water thrown on the protesters at all?

A No.

Q Did you see the protesters the whole time they were there?

A Yes.

Q On both occasions?

A Yes.

Nada Smith

Q You saw them the whole time they were there?

A Yes.

Q About how long were they there the first time?

A A few hours.

Q And the second time?

A Probably an hour or two. And then my father came and settled everything.

Q There's also another allegation in one of the complaints about a car going up on the sidewalk towards the protesters, physically towards the protesters. Did you see anything like that?

A Absolutely not.

Q Did anyone tell you about anything like that?

A No. Like I said, my dad came -- pulled into the dealership and walked over to them to talk to them.

Q What vehicle, if you remember, was your father driving when he pulled up to the dealership?

A I don't recall.

Nada Smith

MR. SIMON: Note my objection to the form of the question. I think she said "pulled into" the dealership. You said "up to" the dealership.

Q In any case, if you don't understand one of my questions, will you please ask me to rephrase?

A Okay.

MR. SIMON: I just object to the form of the question.

MR. KESHAVARZ: If she doesn't understand the question --

MR. SIMON: I just objected to the form of the question. You can answer.

Q Was he pulling in or up?

A He was pulling into the dealership.

Q How close to the sidewalk was he,
if you know?
A Where the protesters were?
Q Where was the car?
A Oh, it was completely on the other
side. They were in the front. My dad pulled
in from the side.

Nada Smith
Q Do you remember what type of
vehicle your father was driving at the time of
the protests?
A No.
Q Does he change the vehicles he
drives?
A Yes, all the time.
Q Because he drives vehicles that
are on his lot; is that why?
A Yes. He has a dealer plate.
Q So what does that mean?
A A dealer plate is used to put on
vehicles, to get them from point A to point B.

Q So does that mean when there are different inventory vehicles on the lot, he would just drive them around for his own use?

A Well, he drove different vehicles also to check the vehicles, to make sure that there's nothing wrong with them. He drives them home, makes sure that they drive okay, there's nothing wrong with the vehicle, brings it back, and changes his vehicles every day.

Q So the vehicles he would use were the vehicles on the lot that were for sale?

A Yes.

Q Did you open the mail while you worked at New York Motor Group?

A No.

Q Do you know who did?

A I had an accountant that opened up the mail. There was like -- there was a few since I've been there. I don't remember all their names.

Q Do you know if there were complaints from the Department of Consumer Affairs that came into the dealership?

A Yes.

Q Do you know how many?

A I don't know.

Q More than ten?

A I don't know.

Q More than twenty?

A No, I don't think so.

Q You think somewhere between ten and twenty?

A Yes.

Q Did you see the physical complaints as they came in?

A Not all of them. The ones that I did see, I gave to Julio to handle, because he knew the issues.

Q Generally was there a common

complaint that consumers had or that DCA made; that consumers were promised that the interest rate on a car loan would go down after a number of months? Was that a common type of complaint?

A The last few months, yes, I did see a lot of those complaints.

Q Before then?

A Not really. It happened once, maybe, or something. But the last few months I was there, that was a very common -- that was honestly I think the only complaint; that their payment and interest rate was supposed to drop. And the first time I had asked Julio if that was really true, he did show me an example and he said, "Yes, it is possible." So I believed him.

Q Was another common complaint that people made downpayments that were not reflected on the retail installment sales contract?

A That didn't show on the retail, no -- no, because all the downpayments were written on the bill of sale and everything that the client received.

Q You said that you would write the checks for refunds if the consumers returned vehicles; is that right?

A Yes.

Q How often did you do that?

A I think it was once or twice. But mostly the refund is if they leave a small deposit to hold the vehicle and they come back and change their mind; that they don't want the vehicle. Those are the refunds that I would write.

Q Let's talk about people who try to return the car prior to the deal being funded.

A Yes, that happened twice.

Q What does that mean?

A That means the customer bought the vehicle and before the vehicle was funded through the bank, like, before the loan was permanently theirs, because we have I think a

Nada Smith

two-day or something until the vehicle completely goes through the loan and everything -- so I know this one client. The next day, he didn't want the vehicle, brought it back and said, "No, my wife didn't want it" and this and that. And so we took back the vehicle and gave him his refund and everything.

Q What do you mean, there's a two-day thing before the loan goes through?

A Well, it takes two days for the loan -- for the bank to fund the deal.

Q Between what two points? Between when you give them all the signed paperwork?

A We give them all the paperwork, this is what I know -- I've never done it -- but to my acknowledgment, the bank requires paperwork from the dealership. The dealership sends it to the bank. The bank reviews it and funds the deal. Yes, I'm pretty sure that's how it works.

Q And there's a two-day gap, or so?

A Don't quote me on that. I don't

know how long it takes, but I know there is a process before the deal actually gets funded.

Nada Smith

Q From New York Motor Group's point of view, if you know, the consumer can try to return the vehicle at any point prior to the deal being funded, or do you know?

A I don't know.

Q Did Mr. Tuhin try to go back to the dealership to return the vehicle?

A Yes. But he had the vehicle for over a month.

Q Do you know if he tried to return the vehicle before that?

A No.

Q How many times do you remember seeing Mr. Tuhin?

MR. SIMON: Objection to the form of the question. Do you mean before the transaction?

Q Do you understand my question?

A You're saying -- are you asking if I've seen him before he returned the vehicle or after he returned the vehicle?

Q I'm glad you asked me to clarify. Please always do that.

A Okay.

Nada Smith

Q My question is, just generally how many times have you ever seen Mr. Tuhin?

A Overall?

Q Yes.

A Probably three or four times, counting the protest -- four times, yes.

Q So you saw him at both protests?

A Yes.

Q So you saw him two times before the protests; does that sound about right?

A No. One -- I'm sorry, I saw him more than four times. He came in twice before the protest. Twice during the protest. And once again after the protest.

Q What do you remember about the first time you had seen him?

A He came in, said that he didn't want the vehicle anymore, that it was too much for him and he can't afford it and everything -- that was a month after he purchased the vehicle though, so the car was already registered, the loan was in his name, he made payments and everything -- saying that he couldn't afford it and he wanted to return

the vehicle. We told him, "Sir, we can't do anything for you, because you've already made payments on the vehicle." And he was just really upset, and he came back a second time asking for the same thing and I don't remember exactly what happened, but I know that, you know, we couldn't do anything for him and he was really upset. And that's when he came back with the protests.

Q When you say he was really upset, what do you mean?

A I know at one point he was crying.

Q Was he crying the first time or the second time, or do you remember?

A I don't remember, honestly. But I know at one point he was crying.

Q What did he tell you that made you think that he was crying? I mean, what else did he say specifically?

A He was just saying that he couldn't afford it -- that he couldn't afford the vehicle, he couldn't afford the payments, he just couldn't afford it and he was getting really upset about it, that he couldn't afford

it.

Q Did he tell you why the payments were so high?

A No.

Q Did he accuse New York Motor Group
of doing something wrong?
A He said that we gave him paperwork
that was blank to sign -- which was never true,
because I saw, after everything, I saw the bill
of sale and I saw the contract and his
signature is next to everything. So for him to
say that it wasn't there -- to line up to sign,
it just wouldn't line up.
Q What do you mean by "it wouldn't
line up"?
A It wouldn't line up to where he
would sign right next to each charge and each
thing that he should have been aware of.
Q You mean, where his initials were?
A Yes.
Q Is that what you mean?
A Yes.
Q So he was saying he signed
documents that were blank?

A Yes.
Q Are you saying it's physically impossible for him to sign a blank document and then for those numbers to be filled in later?
A Yeah, because the customer fills out -- doesn't fill out blank paperwork.
Q But how do you know that that didn't happen in his case?
A Because I know for a fact, because the way it's lined up on the bill of sale. If he would have signed it blank, it wouldn't have lined up the way it does.
MR. KESHAVARZ: Do you have the bill?
MR. SIMON: I just got some stuff from Palisades.
MR. KESHAVARZ: May I see that? You can pass me the whole file.
MR. SIMON: This is what you want.
MR. KESHAVARZ: Mr. Simon, you can just pass me the whole file, please. Thank you, sir.
Q I'm showing you what has been marked from the deposition of Mr. Tuhin as

Nada Smith

Defendant's Exhibit C, from the deposition of October 27, 2014. There is a signature under "New York Motor Group." Do you know whose signature that is?

A Julio's.

Q You recognize the signature?

A Yes.

Q During Mr. Lane's testimony, there was an issue about two different types of signature allegedly by Mr. Estrada. Do you remember that?

A Mm-hmm.

MR. SIMON: You mean, Mr. Lane's questioning.

Q Mr. Lane's questioning.

A Yes.

Q So are you absolutely certainly that is Mr. Estrada's signature?

A Yes.

Q Did Mr. Tuhin say which papers that he signed that he claimed were blank?

A He said all of them.

Q He said all of them?

A Mm-hmm.

Nada Smith

Q So that would be including Exhibit C; right?

A Yes.

Q And Exhibit C is the retail installment sales contract for his vehicle; right?

A Yes.

MR. SIMON: Note my objection to the form of the question, and your description.

Q Document Exhibit C has the staff of M&T Bank in the upper left-hand side. The upper right-hand side it says, "Retail Installment Contract, parentheses, Motor Vehicle, dash, NY."

MR. SIMON: You called it that, retail installment contract. You just

called it the retail installment sales
contract.

MR. KESHAVARZ: Okay.

Q Looking at Exhibit C, why is it not possible that Mr. Tuhin could have signed a blank document that was Exhibit C?

A None of our clients sign blank

documents.

Q How do you know that?

A Because it just doesn't happen.

Q How do you know that?

A Because I know for a fact, because I would get the paperwork right after the client signs it.

Q So you would see the consumer signing the paperwork?

A No, but I know for a fact that there is no way that any of our clients signed blank documents.

Q Did you regularly see consumers

sign sales contracts?

A No, because they were always in the finance office and I wasn't in the finance office.

Q Have you ever seen a consumer sign any of the paperwork for purchase?

A For?

Q Purchase of a vehicle from New York Motor Group.

A No.

Q You've never seen a consumer sign

any --

A No.

Q Wait until the question is done.

The question is: Have you ever seen, at any point when you worked at New York Motor Group, a consumer sign any of the sales or financing agreements for the purchase of a vehicle from New York Motor Group?

A Yes.

Q How often have you done that?

A I've seen a few times.

Q Not regularly? Just a few times?

A A few. Yeah, a few times.

Q How often would you say?

A I don't remember, but I did see a few times.

Q And those few times, did you notice if the papers were blank?

A They were all full.

Q Do you know from your own observation whether other consumers could have signed sales and financing papers at New York Motor Group that were in fact blank?

A No, that never happened. They

never signed anything that was blank.

Q How do you know that if you've only seen a few consumers sign papers?

A Because no consumer would sign a

blank piece of paper. Especially for contracts and everything like that. They just wouldn't. They would say, "I'll come back when the printer or whatever is working" -- if the person says it's, you know, broken or anything, if Julio states anything. Because customers just wouldn't sign anything blank.

Q You just assume they wouldn't?

A I know they wouldn't. Because I remember one time we told the client to come back, because the printer wasn't working actually.

Q When was that?

A I don't remember when it was, but I remembered it happened.

Q When Mr. Estrada worked there?

A Yes.

Q You might have been asked this before I came in earlier today. Did Mr. Estrada work there the entire time you worked there?

A No. The first few months that I was there, there was another finance manager. His name is Angel Santiago.

Q When did you start working there?

A October of 2012.

Q When did you cease working there?

A I'm sorry?

Q When did you cease working at New York Motor Group?

A When did I what?

Q Cease working there.

A "Cease"?

Q Stop.

A Oh, sorry. December 2013.

Q Were any of the other complaints you have ever heard from any consumer about New York Motor Group -- other than Mr. Tuhin -- that he signed papers at the dealership that were in fact blank?

A I think one or -- one other person said that; that they signed the paperwork blank.

Q Did you have any reason to believe

Nada Smith

that wasn't true?

A That he signed -- no, like I said, no client signed blank paperwork.

Q When was that complaint that a consumer said that he signed blank paperwork?

A It was before Tuhin. I don't remember exactly when.

Q Six months before?

A Probably, yeah.

Q This contract with Mr. Tuhin, Exhibit C, is dated June 21, 2013?

A Mm-hmm.

Q So do you think that would have been going back to sometime in 2012 --

A No, not in 2012.

Q You have to wait until I finish the question. Do you believe that it was in January or February of 2013 that another consumer to your knowledge made a complaint that New York Motor Group had him sign blank paperwork?

A I don't remember exactly when, but

it was in the time frame of January to June.

Q Of 2013?

Nada Smith

A Yes. Closer to June. I don't remember exactly what month, but it was closer to June -- probably May.

Q Do you remember that person's name?

A No.

Q Do you remember what type of vehicle that person was purchasing?

A No.

Q Do you know what happened to that complaint?

A Yes.

Q What happened to that complaint?

A It was resolved.

Q In what way?

A I just, I never saw the person again. I never saw the client again and he never called back or anything. Julio handled the issue.

Q Did Mr. Estrada tell you that the issue was resolved?

A Yes.

Q Did he say how?

A No.

Q Did your father ever tell you that the issue was resolved?

A No.

Q Did your father know about the allegation -- other than Mr. Tuhin -- that a consumer was signing blank paperwork at New York Motor Group?

A No, because we didn't have any clients sign blank paperwork, so it was false.

Q I'm just wondering about that one, the complaint prior to --

A That one customer?

Q Yes. Let me just make sure that

the record is clear.

The customer prior to Mr. Tuhin that alleged that he signed blank paperwork; that allegation was somewhere between January and June of 2013? Correct?

A Yes.

Q Was your father, if you know, told about that complaint?

A I don't remember.

Q You're not sure either way?

A Yeah.

Q Okay, all right. You talked before about lines not matching up. So physically, in terms of the printout that is Exhibit C -- just physically speaking -- can you think of any reason why in fact Mr. Tuhin could not have signed a blank document that's Exhibit C?

A Well, I mean he has to know his

payments before he signs. So that's a reason why he wouldn't sign it blank.

Q Okay. But there's no physical thing about the printout or the line-up of the information that would physically prevent them from having a signed contract that is blank?

A No.

Q So let's look at Exhibit B. This was marked in Mr. Tuhin's deposition as Defendant's Exhibit B. The exhibit sticker is dated October 27, 2014. Is there any reason to think that Mr. Tuhin could not have signed Defendant's Exhibit letter B in a blank form?

A Yes.

Q Why?

A Because his signatures have to

match every single, I guess, fee that he's charged with.

Q Yes?

A So in order to have him sign --

because we never know -- when it prints, we never know what numbers are going to go where, or how it's going to print out or how it's going to line up. So when it prints, it prints how it prints out, and we have them sign right next to the charge.

Q Who is the person that generally prints out the forms like Defendant's Exhibit B and Defendant's Exhibit C?

A Julio.

Q Estrada?

A Yes.

Q So he would be the person who would know how to line up the text of the printouts onto the forms; right?

A With every printout, I think this is -- every deal has different numbers and everything, so it's not always going to be on the same line.

Q Do you know from your own

knowledge if Mr. Estrada has the ability to know -- when he prints out a document like Exhibit C -- where the printout is going to go on the form? Do you know from your own knowledge one way or the other?

A No. I know that he knows how to print out all the forms, but there's no telling where the numbers are going to show.

Q But you don't know that from your own knowledge, or do you? Do you know if Mr. Estrada knows how to print out a form, so that when he prints it out he knows where the typed text will be?

A I don't know.

Q Is there any other reason why you think Mr. Tuhin could not have signed blank paperwork at New York Motor Group, other than what we have already discussed?

A I actually remember Tuhin, because it was M&T Bank, and it was funded the next day. So there is no possible way that it could have been signed blank if it was funded the next day then and there. It just takes too much time to fill it out. If it was blank, I

Nada Smith

don't know.

Q I'm not sure I follow you.

A Tuhin's was funded the next day. And you asked me if -- I'm sorry, I'm lost now.

Q Let's take it one step at a time. You said Mr. Tuhin's contract was funded the next day?

A Yes.

Q What do you mean?

A That means the loan was, it was in his name the next day.

Q Do you remember Mr. Tuhin being at the dealership the day he signed the paperwork?

A Yes. Because it was a very old vehicle on our lot. Like, it was there for a long time -- the vehicle.

Q So you remember him going to the dealership when he first signed the papers?

A Coming in, yes.

Q Did he talk to anyone?

A No. I mean he spoke to the salesperson and everything like that. I said hi to him when I saw him and everything. But one-on-one conversation the first day, no.

Nada Smith

Q What do you remember about the first day that Mr. Tuhin was there?

A He came in and loved the car. He was very excited about it and loved it, signed the paperwork, and he was really happy.

Q Did you see him sign the paperwork?

A I'm trying to think.

MR. SIMON: Note my objection to the form. What paperwork are we referencing?

MR. LANE: Co-counsel are handing me their super secret questions and distracting me.

MR. SIMON: I just objected to the form of the question as to what paperwork. There's a lot of different types of paperwork.

Q The first time Mr. Tuhin goes to the dealership and he signs paperwork, do you see him signing any of the paperwork?

A I think I do, because I know for a fact he didn't sign it blank.

Q How do you know that?

A Because I think I remember seeing him sign the paperwork. He came in so many times that it's just like, you know, that's why I remember him so well, because he came in a few times. I think I did see him sign it, because I had to go into the office to grab something -- I don't remember what I was getting, but I had to step into the office to get something, and he was even telling how excited he was about it.

Q What do you remember him saying?

A Because I asked him. I was like, "Do you like the vehicle?" And he said, "Yes, I love it. It drives so nice" and this and that. And "I'm getting a good deal."

Q Do you remember him saying anything else?

A The day that he purchased it, no.

Q You handled the deal files?

A Yes.

Q What does that mean in Mr. Tuhin's case? What documents do you handle that you remember, sitting here today?

A His DMV paperwork, to send it to

be registered. And I think it was one of the things that the deal needed to be funded that I had to fax over to the bank. I'm not sure honestly, I'm sorry.

Q For Mr. Tuhin?

A Yes. But I did do his DMV paperwork, like his MV-82 and stuff like that.

Q What is an MV-82?

A That's for registration. And an MV-50 is for a title, assignment for a title.

Q Did you see a retail installment contract for Mr. Tuhin?

A Yes.

Q You saw him physically sign the paper?

A I saw him sign papers, and they weren't blank.

Q So you looked at the documents that he was signing?

A I glanced over, yes.

Q Which documents do you remember him signing?

A I don't remember. But I know that all of them were full.

Q Did you see him sign a retail installment contract?

A I don't remember what he signed exactly, but I know the paperwork that he was signing was complete.

Q What paperwork did you see him signing that you believe was complete?

A I had just went into the office for just a few seconds, so I saw him in there signing paperwork. I didn't really see exactly what he was signing.

Q So sitting here today, from your best memory, from what you actually saw with your own eyes that day, do you remember what you saw him sign?

A No.

Q So sitting here today, your testimony -- and I know it's been a while, so I'm just asking you -- sitting here today, can you testify one way or the other whether the paperwork he signed included a blank retail installment contract?

A I'm sorry? Can I testify that he did or didn't sign it blank?

Q Either one.
A I know that he didn't sign it blank. It was full.
Q How do you know that?
A Because the paperwork was full. Because Julio, before he handed him the paperwork to sign, it was all stacked up beside him. I don't remember what it was exactly. I know the contract was one of them.
Q Which contract?
A The M&T one. The retail installment contract.
Q Exhibit C?
A Exhibit C, yes.
Q So what were you saying about Defendant's Exhibit C?
A I know that Exhibit C, Exhibit B, the DMV paperwork, and the other paperwork was all in that office. I don't know which one he was signing exactly, but I remember that they were all full. And I remember seeing all the paperwork that needed to be signed. But I don't know if he signed the contract before I went in or after. But I know it was full.

Nada Smith

Q So you're saying he could have signed blank papers and then it could have been printed out after?

A No, I never said that.

Q Is that true?

A No, that wouldn't happen.

Q You assume it wouldn't happen, but you don't know as to Mr. Tuhin's case specifically, from what you saw yourself?

A No, I know for a fact, because I saw all the paperwork. It was full. I remember seeing this one and another -- it was a few copies of the bill of sale, Exhibit C, and other documents that were there. They were all completely full, and he was signing. Like I said, I don't know if he signed it before I walked into the office and Julio had put it aside, or if he was getting ready to sign them.

Q Okay. We kind of got back and forth a few times on the question, so I just want to make sure I'm entirely clear.

Do you remember seeing Exhibit B

when you saw Mr. Tuhin the first time he was there? Do you remember seeing Exhibit B?

Nada Smith

A Yes. I don't remember seeing exactly what it said, but I remember seeing it completed.

Q By "completed," you mean what?

A Printed out like that.

Q With information about the service contract and so forth?

A Yes. But I don't -- I didn't see the numbers or anything like that.

Q What would you call Exhibit B? What kind of document is it?

A Bill of sale.

Q Bill of sale?

A Yes.

Q This was two years ago, almost two years ago. Talking about Exhibit C, do you remember being in the room for just a few --

how long were you in the room for?
A Probably two minutes or a minute.
Q Okay. And what was the reason you went into the room?
A I had to get something. I don't remember what it was.
Q Nothing to do with Mr. Tuhin?

A No.
Q So you go into the room almost two years ago for a minute or two to grab something for another matter. Are you saying that you specifically remember seeing, for example, Exhibit C, fully completed?
A Yes.
Q Are you saying from your one or two minutes going into the office for another matter, that you specifically remember seeing Exhibit B fully completed?
A Yes.
Q Did New York Motor Group have

consumers sign multiple bills of sale?
A Yes.
Q Why?
A It was different copies that went to different departments, sent to different departments.
Q But the numbers would be the same?
A Yes, they should all be the same.
Q I'm showing you what was previously marked as Defendant's Exhibit C from Mr. Tuhin's deposition -- D, I'm sorry.

Defendant's Exhibit D from Mr. Tuhin's deposition. The exhibit sticker is dated October 27, 2014. Do you know if Mr. Tuhin signed a completed version of Exhibit D on the day that you went into the room for one to two minutes?
A Yes. I saw a few copies of Exhibit D. And I saw a few copies of the bill

of sale -- I think it was three or two, but I know it was more than one.

Q Do you know if those were all specifically for Mr. Tuhin?

A Yes.

Q How do you know that?

A Because he was the only client in there signing paperwork.

Q So you're not talking about a carbon? You're talking about three different bills of sale?

A Yes.

Q Why are there three different bills of sale as to Mr. Tuhin?

A To my acknowledgment, there's more than one because it's sent out to different

departments.

Q But don't they come in terms of duplicates and triplicates?

A Yes, they do. Like I said, I

don't know why Julio had them sign multiple copies, but he told me it's to be sent out to different departments.

Q Do you know one way or the other if it was a regular practice of New York Motor Group for the entire time you were there, for consumers to sign multiple copies of bills of sale?

A Yes. Because when I saw it I had actually questioned Julio. I'm like, "Why is there more than one?" He's like, "It's sent out to" -- he named just different departments.

Q And you saw that as a common practice in New York Motor Group from October 2012 through December 2013?

A I don't remember it when Angel was working there, because he was there for a short period of time, and I really didn't touch any of the paperwork when he was working there.

Q But for the entire time that

Mr. Estrada worked there?

A Yeah.

Q When did he start working there?

A December. I didn't see it when he first started in December. But when I did see it, I had questioned him. And that's what he was doing on a regular --

Q Regular basis?

A Mm-hmm.

Q You have to say "Yes."

A Yes.

Q Did you believe he was doing that on a regular basis from December 2012 forward?

A Yes.

Q So from the very beginning when Mr. Estrada was working there at New York Motor Group, he would have consumers sign multiple copies of buyer's orders; correct?

A Yes.

Q Is it "bill of sale" or "buyer's orders"?

A Bill of sale.

Q Documents that are like Exhibit B?

A Yes.

Nada Smith

Q Mr. Estrada for the entire time that he worked there beginning in December of 2012, would he have consumers sign multiple copies of retail installment contracts like Exhibit C?

A No.

Q How do you know that?

A Because there was always only one contract in the deal jacket.

Q By "contract," you mean the retail installment contract?

A Yes.

Q I just want to get the terminology straight. What we're calling Exhibit B is that what's called a "bill of sale"?

A That's what I call a bill of sale.

Q Just so the record is clear, even if the term is wrong: If you call it a "bill of sale," you mean a document that looks like Defendant's Exhibit B?

A Yes.

Q Would you see in the deal file for

consumers, from December of 2012 forward, multiple copies of bills of sale?

A Yes.
Q All the way beginning in December of 2012?
A Like I said, I don't remember the first few months, but when I did notice it I did question Julio, and that's what he had told me.
Q Let's talk about the deal files. You would physically get the deal files?
A Yes.
Q What is a deal file?
A It has the customer's information in it. DMV paperwork, bank paperwork, customer's paperwork, license, everything like that.
Q So finance paperwork, you mean things like the buyer's order?

A Yes.

Q And retail installment contract?

A Yes.

Q And credit applications?

A Yes.

Q And statements about people's income?

Nada Smith

A Yes.

Q Trade-in information?

A Yes.

Q Credit applications?

A Yes.

Q Credit reports?

A Yes -- well, no. Credit reports, they were ran on the computer. They were never printed out. We're not allowed to keep credit reports in the files.

Q Dealertrack information; would that be in the deal file?

A Sometimes.

Q What is Dealertrack?

A It -- I forget what it was. I remember seeing in a few folders something about Dealertrack. I forgot what it was, it's been so long.

Q Just generally speaking, do you know what Dealertrack is?

A If I could refresh my memory, yes. I know, but I don't know right now.

Q All right. Well, you'll get the chance, I assume.

MR. KESHAVARZ: Let me strike that.

A Oh, I'm sorry. Dealertrack is where we submit the customer's applications. There we go.

Q And would that information be printed out and put in the file?

A The customer's credit ap, yes, but

not the customer's credit report.

Q The approval process for financing for Mr. Tuhin and consumers generally at New York Motor Group; that is generally done electronically on computers, right?

A I think so. I don't know. I never did it.

Q You didn't do it yourself?

A No.

Q Would you see in the deal file the credit application information?

A Yes.

Q Would you see printouts?

A I would see a bank printout, whatever bank it is. And it says "approved."

Q You talked about a two-day gap.

Do you mean a two-day gap between when the deal is approved and when the deal gets funded?

A No.

Q What do you mean by a "two-day

gap"?

A When -- I'm not sure, because it wasn't my job, but to my acknowledgment it was after the client signed paperwork, signed everything, and the paperwork was sent to the bank to get -- for the loan to process.

Q But from New York Motor Group's view the deal is not completed until they actually get the payment from the bank?

A I don't know how it works.

Q That's fine. When you saw the buyer's order -- like Exhibit B -- you would see multiple copies for consumers on a regular basis in the deal file; right?

A Yes.

MR. SIMON: Note my objection. I don't believe she said that was the buyer's order; she said that was a "bill of sale."

THE WITNESS: Oh, yes, a bill of

sale.

MR. KESHAVARZ: That was my mistake. Just to clarify, I defined that in my letters as the "purchase order."

THE WITNESS: Oh, do you?

MR. KESHAVARZ: Whatever it is --

MR. SIMON: She calls it the bill of sale.

Q Whatever it is, it's a document that looks like Exhibit B; right?

A Mm-hmm. Yes.

MR. SIMON: But nobody called it the buyer's order.

MR. KESHAVARZ: Purchase order?

MR. SIMON: The purchase order, the final purchase order. The M&T document is the retail installment loan contract.

Q What would you do with the deal file when you got it?

A I would file it in the file cabinets.

Q Would you look at any of the

Nada Smith

papers?

A Sometimes.

Q Did you notice if multiple copies of what we're calling the "bill of sale" -- which your counsel may call the "purchase order" -- did you notice if those documents had different numbers on them?

A I don't think so.

Q Generally for consumers at New York Motor Group, did you notice one way or the other?

A If the numbers were different?

Q Yes.

A The numbers always matched at the end, but along the lines they weren't always there, but the ending number always matched.

Q When you say the numbers "weren't always there," what do you mean?

A For example, like this one -- like Exhibit D.

MR. SIMON: She is referring to the Tuhin documents that were marked as exhibits at Tuhin's deposition.

MR. KESHAVARZ: Correct.

Nada Smith

A See, this one. [Indicating.]

Q "This one," looking at Exhibit D.

A Looking at Exhibit D, it does not have Exhibit B's "4700" charge, but the ending numbers match. So the different charges are not on Exhibit D, but Exhibit D and Exhibit B ending numbers match.

MR. SIMON: No, no, no.

MR. ELTOUBY: [Inaudible]

MR. SIMON: Please let her do it. Don't say anything to her.

Q For Mr. Tuhin, you remember when you went into the office for two or three minutes that there were multiple copies of what we're calling "bills of sale"?

A Correct.

Q Not just carbon copies, but actual

different ones?

A Yes. I don't know if there were three or two, but I know there was more than one.

Q Did you notice if they were all completed?

A Yes, they were all completed.

Nada Smith

Q Do you know why they would be completed with different numbers?

A No.

Q Now I'm going to go to the super secret questions that I was handed.

A Okay.

Q Ready?

A Mm-hmm.

Q Did your father purchase a vehicle just before the protests, if you remember?

MR. SIMON: I didn't hear the question.

Q The protest we're talking about;

do you know if your father had just purchased a vehicle before that?

A I don't know.

Q Let's talk about the protests. You said the police were called. Were the police called both times?

A No, just the first time.

Q Whichever time it was, did you have any interaction with the police?

A Yes.

Q What do you remember from that?

A I asked them if they had a permit or if they're allowed to protest. And he said that they are allowed, because it's under a certain number -- that they don't need a permit. And that was really it. And he said that unless it gets violent there's nothing that they can do.

Q Did they get violent?

A No.

Q Do you remember if you went into the cabinets at the dealership and got any financing or sales papers from Mr. Tuhin's deal to show them to the police? Or do you remember that at all?

A Yes, that actually did happen. It was him and the other client -- I don't remember the other client's name -- that was protesting with him. We pulled both of them to show to the police, because he was asking us why they were angry and why they were doing what they were doing.

I think Mr. Tuhin was telling the police officer what happened and then he was questioning -- my father was there at the time

and that's when the police officer told my father, "See if you could come to an understanding with him." That's when my father went outside to calm them down, and they walked over to 7-Eleven and the police had left before my dad had went outside.

Q So did you give the police officer some of the papers that were in the files?

A Yes, because they wanted to see them.

Q Did they claim that they weren't given all the papers?

A I don't remember, I don't remember. I'm just trying to remember, but I don't remember. But I know that the police officers did -- you know, we did show them the paperwork and everything.

Q Do you recall if you gave the police officer any of the papers?

A To take with them, no.

Q You don't recall; or, no, you didn't?

A We didn't give them paperwork to take with them. We just showed them the paperwork.

Q Do you recall if the police officer actually returned the papers that you showed him or her?

A Yes.

Q You remember that?

A Yes. It's been so long, I'm sorry.

Q That's fine. All you can do is sitting here today what you remember.

A That's what I'm trying to do.

Q That's all you can do.

MR. SIMON: I'm confused. I thought you were asking if the dealership, if she gave the complainant paperwork -- or was it the police officer? I'm now confused by the whole scenario.

A You were asking if I gave the police paperwork; correct?

Q Did you give any paperwork to anyone during the protests?

A No, I don't remember, sorry.

Q Don't be sorry. If you don't

remember, you don't remember. Did you give the papers to your father during the protest?

A I don't remember.

Q Do you remember giving any of the papers to any of the protesters?

A No.

Q No, you don't remember; or, no, you didn't?

A No, we didn't.

MR. KESHAVARZ: Your father wants to say something.

MR. ELTOUBY: I remember very good when the police officer came.

MR. SIMON: He will depose you afterward.

THE WITNESS: He'll remember more than I will, because he spoke to the police officers and the protesters.

Q That was one of the super secret questions.

MR. GROSSMAN: Can we take a break, counselor?

MR. KESHAVARZ: Sure. Go ahead.

oOo

Nada Smith

(A discussion is held off the record. Brief recess is taken. Time noted: 3:18 p.m. to 3:30 p.m.)

oOo

Q So we were talking about conversations with Mr. Tuhin earlier.

A Correct.

Q And we talked about the first time you met him when he first signed the papers. Do you remember that?

A Correct.

Q And then we talked about when you met him during the protests; do you remember that?

A Correct.

Q Did you see him at any time between those two appointments?

A Not between the protests, no.

Q After the protests?

A Yes.

Q What do you remember about that?

A I remember seeing him again. He came in because he had came to an agreement with my father, and he came in to see Julio and

my -- no, he just came in to see Julio, because my father explained to him what the understanding was that they came to.

Q How do you know your father explained to him the understanding that he came to?

A Because my father went into Julio's office and told him. I don't know what was said, but I know he was explaining to him that they came to an understanding.

Q Is that the time he was crying, or a different time?

A No. The first time he was crying,

I wasn't really talking to him. He was talking to the sales manager and toward the end when he was leaving, I had noticed that he was crying. I asked the sales manager what was going on, and he had explained to me. That was the first time that he came in after he purchased the vehicle.

Q Who was the sales manager?

A At the time it was Mohammed.

Q Do you know what Mohammed's last name is?

A No.

MR. KESHAVARZ: There's more than one Mohammed in the Muslim world.

THE WITNESS: I know.

MR. KESHAVARZ: As an "Ahmad," I understand how many Mohammeds there are.

Q Do you know where Mohammed is?

A No.

Q Do you have a last address for him or a last phone number?

A No.

Q How long did he work at the dealership?

A A few months.

Q There's some discussion from somewhere that he went back to Egypt. Do you know if Mohammed was from Egypt?

A Yes.

Q Do you know if he went back to Egypt?

A I don't know.

Q Do you know if he came from Egypt recently before he started working at New York Motor Group?

A I don't know.

Q Does the dealership have information, like his contact information, off the job application?

A At the time there was a copy of his license and a phone number, yes, that we had kept on file.

Q Do you still have it?

A No.

Q Do you know what happened to it?

A I don't know. You know, the stuff that was there -- I had left, and I don't know what happened to the stuff that was there.

Q So it might still be in the files and you don't know one way or the other?

A I don't know.

Q How many times did you see Mr. Tuhin crying?

A Once.

Q I think, before, you talked about him saying that he couldn't afford it. Let's see what my notes say. I had written down that you heard Mr. Tuhin come in and say he couldn't afford the payments --

A Yes.
Q -- and the payments were too high?
What else do you remember him saying at that time?
A That's when Mohammed, the sales manager, brought him into the office and was talking to him. And when he was leaving, that's when I noticed that he was crying and I asked Mohammed what happened, why he's upset. He told me he kept saying that he can't afford the payments and he can't have the vehicle anymore, but that he can't do anything about it, because he had the vehicle for a long time and that he made payments on it. So he explained to him that there was nothing that can be done.
Q But there would be something that could be done if Mr. Tuhin came back to New York Motor Group prior to M&T Bank funding the deal; correct?
A If he --
MR. SIMON: Note my objection to the form of the question. You're asking --

Nada Smith

MR. KESHAVARZ: Okay, wait, wait. You objected as to the form.

Q You may answer the question.

A If he would have came the next day to return the vehicle, there would have been no problem. But the only thing with him is he kept complaining to Mohammed, telling him that, "Oh, I never signed any of the paperwork. Oh, the paperwork was blank" -- that's what Mohammed was telling me that's what he was saying. And it wasn't true. Because even -- even when the protest happened and the police was called and he explained -- because like I told you the police questioned the protesters, why they were protesting.

To my acknowledgment, the protester -- Mr. Tuhin -- told the police officer that he never signed the document. That's when they came in to ask for the document. I had went to the cabinet and got the paperwork. My father was present at the time and asked to see his paperwork and his license and everything to match the signature, and it all matched. So he told him, "There's

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no way that you could have not signed this. Your signature is exactly the same" -- that's what the police officer explained to Mr. Tuhin. So then Mr. Tuhin was, like, "Oh, the documents were blank." And then the police officer was, like, "Were the documents blank?" We were, like, "No." He asked me and my father that. And I said "No," because I remembered walking into the office and seeing him sign for that short time, having Julio sign them, and everything like that.

Q Correct me if I'm wrong, but I thought you didn't actually see him signing it; did you?

A I saw the documents completed. I didn't -- like I said, I don't know if he had signed before I walked into the office or after

I walked into the office, but I know that the documents were completed.

Q Do you remember seeing Mr. Tuhin or having a conversation with Mr. Tuhin at any other point other than what we've talked about so far?

A I'm sorry, can you repeat that?

Q Sure. Did you have any other interactions with Mr. Tuhin other than what we've talked about so far?

A No. Because whenever he came in he just came in to complain to Mohammed or Julio or whoever was there. I had just seen him, you know, walking in and out those few times.

Q So how many times between when he first signed the papers and the protests did you see him come into the dealership?

A He came in twice before the protests. The protest, the first time. The second time, the protest. So that's four. And I believe another two times -- I don't remember if it was two or once, but I remember seeing him after the protest to settle everything.

Q So it was the first time he was there, and then one other time when he was crying, and then the protests?

A The first time when he bought the vehicle. The second time when he was upset. He came back again to see Julio. And then -- then that's when he came back to protest.

Q So he was there three times prior to the protest?

A Yes, I believe so. I don't remember exactly, but I think that's three times.

Q The time that he spoke to Julio; was that the time he was crying or was that another time?

A That was the second time he came. The first time he came he spoke to Mohammed.
Q When he spoke to Mohammed, that's when he was crying?
A Yes. Because he came in complaining to Mohammed that he couldn't afford the vehicle.
Q Did Mohammed tell you anything else about his conversation with Mr. Tuhin?
A No. He just told me that he wanted to return the vehicle and he wanted to get out of the loan, that he can't afford it. So he kept asking him what he should do and Mohammed explained to him that there's nothing that can be done since he had already made payments on the vehicle.

Q When he spoke with Mr. Estrada, did Mr. Estrada tell you what the conversation was?
A No.

Q Did you hear any of that conversation?

A No.

Q Was he crying at that point, with Mr. Estrada?

A No.

Q Apparently Mr. Estrada -- Julio Estrada -- uses different names?

A Yeah.

Q How long did you know him as "Julio Estrada," or what do you know about his name? When did you start calling him "Mr. Estrada"; what do you remember?

A I thought -- because he went by the name "Jay," and every client he meets he introduces himself as "John DeSantos" -- so I thought that's where the "J" came from, the "John." That's his name. I didn't know his real name was Julio Estrada until a little bit before he had left. Or I left. It was before

I left, in the last few months that I was there.

Q So when you said you called him "Jay," did you even think in your mind if you were calling him the letter "J" or the word "Jay"?

A I didn't think in my mind. That's what he went by, so that's what, you know, that's what everyone called him.

Q I missed your prior testimony, but I know you worked in a number of different dealerships prior to working at the New York Motor Group.

A Yes.

Q Were there any cameras at the New York Motor Group?

A Yes, there was.

Q Where?

A The whole time that I was there.

Q What would those cameras be recording?

A Everything. There was a camera in Julio's office, outside in the sales office, and in the main office outside, and in my

Nada Smith

office.

Q Both audio and video?

A Yes.

Q And they were running at all times?

A Yes.

Q And those recordings were kept at the dealership?

A They were kept at the dealership, yes. I don't know where they are now.

Q Do the finance companies require New York Motor Group to record transactions with consumers?

A No, I don't think so.

Q But New York Motor Group records all its conversations with consumers?

A It doesn't record all the conversations. It just has audio. You don't hear -- you never heard it when it was playing the video. There was an option if you wanted to hear it; but it was not audio, it was just video. But it did record audio.

Q I'm trying to figure out was the default that it would record audio and video?

Nada Smith

That would be the default setting?

A Yes.

Q So as a general rule it would always be recording audio and video?

A I don't know if it recorded always audio. I know there was the option of audio, but it always recorded video.

Q But it would normally be on to also record audio?

A I don't know. I never adjusted the cameras or played with them or did any of the settings.

Q Why would New York Motor Group have those cameras?

A They have cameras for security purposes.

Q And it kept those recordings;

right?

A Yes.

Q For how long?

A I don't know.

Q Do you know if New York Motor Group ever destroyed those recordings?

A I don't know.

Nada Smith

Q Were they recorded onto a hard drive somewhere, or do you know?

A I have no idea.

Q Who would know?

A Probably my father. I don't know.

Q Did you have a tech guy there at all?

A We did have a tech guy, yes.

Q Who was that?

A He wasn't working on the premises. He was just the guy that we called to come and check things if we had an issue with them.

Q Did he do any of the video stuff?

A Yes.

Q So he didn't know about where the information was being recorded?

A Yes.

Q What is his name?

A I don't know. I saw him once when I was there.

Q Who would know what the person's name was?

A Probably my father.

Q Did you ever write checks to pay

that individual?

A No.

Q Do you know how he was paid?

A No.

Q Do you know if he worked for a company?

A I have no idea.

Q You only met him once?

A Yes.
Q Nice guy?
A Nice guy.
Q Did he set up the cameras?
A I don't know.
Q The cameras were there the entire time you worked there?
A The cameras were there before I got there.
Q I'm confused. I just want to make sure I understand. Generally, the default was that the cameras could record both audio and video; is that true?
A I know it had both settings, yes.
Q I want to make sure: Do you know if the default settings for the camera were set

to record both audio and video?
A I don't know. I know that it was just video for sure, because I saw the video.
Q You saw it live or you saw it

playing back?

A The monitor for the video was in the office that I was sitting in, so I saw the video.

Q Do you know if the video camera is just in the offices -- Mr. Estrada's office, for example? Do you know if that was generally set to record audio?

A I don't know.

Q But they all had the capacity to do that?

A Yes.

Q And sometimes they actually did do that?

A I don't know.

Q Do you know if those were tapes?

A I don't know.

Q What I'm calling the "tech guy," was he the tech guy the whole time you were there? I know you only met him once.

A Yeah. I don't know if that was the same one that originally installed the cameras or if he was with the company the whole time. I know that he came once just to check up on the cameras.

Q If you know, is one of the reasons that New York Motor Group has video recordings with the capacity of audio recording -- one of the reasons -- in case consumers have complaints about transactions?

A I know that they were there for security purposes, you know, at night, if anyone steals a car or anything like that. No, it wasn't really meant for any other reason, I don't think. I don't know.

Q Tell me where the cameras are again.

A They were outside, and in our offices.

Q So they were in Mr. Estrada's office?

A There was one in Mr. Estrada's office, one in my office, one in the main opening, three outside, and one in the sales

Nada Smith

department.

Q Those are the ones I'm most interested in. Mr. Estrada's office, in the sales department, and the office.

A Okay.

Q Do you know if those recordings were made at all because of consumer complaints?

A I don't know.

Q All right, fair enough.

When Mr. Estrada worked there, did you take a copy of his ID before he started working there?

A No, because my father had hired him and brought him in to work.

MR. SIMON: Could you talk louder so we can hear?

A My father had hired him, so I didn't take anything. I wasn't in charge of hiring, so.

Q Did you do any of the payroll stuff?

A No.
Q Did you fill out a W-9 or a W-2 or

Nada Smith
a W-3 or whatever it's called?
A No.
MR. KESHAVARZ: I don't even remember which is which.
Q Do you remember about Mr. Tuhin leaving the car back at the dealership at some point?
A I know that he had came and parked it at the dealership. I'm trying to think if he left it or came in to speak to somebody. I don't remember. I know that he parked it at the dealership though.
Q Do you remember if he parked it at the dealership and took the license plates off?
A I think he did. Honestly, I don't -- I'm not too sure, but I think he did.
Q Do you know if someone at the

dealership drove the car back from the dealership to Mr. Tuhin's house?

A I don't know.

Q Do you know if someone from the dealership dropped the car off at Mr. Tuhin's house and gave the keys back to someone at Mr. Tuhin's house, or do you know?

A I think someone did that, yes. I don't know who exactly it was, because I wasn't there. I wasn't present. I don't know exactly what happened or how it happened, but I do believe that someone did drop off the keys to Mr. Tuhin.

Q Why do you believe that? What makes you think that?

A Because someone was saying it in the office. I don't remember who was talking about it, but someone had mentioned something about it.

Q Were they mentioning something

about dropping off both the keys and the car at Mr. Tuhin's residence?

A I don't know about the car, but I know about the key. It was a brief thing that I overheard, you know. I wasn't really paying attention.

Q I was going to ask you about this.

MR. KESHAVARZ: We can mark this as an exhibit.

(Document entitled "Santander Consumer USA Reference Release Form" is

marked as Plaintiff's Exhibit 8 for identification, as of this date.)

Q Do you know what that document is; Plaintiff's Exhibit 8?

A A reference release form.

MR. SIMON: You have to keep your voice up.

A Reference release form.

Q What is that? What is a reference release form?
A I believe it's for the client to give a list of references.
Q The note at the top says "Santander"; do you see that?
A Yes.
Q Do you know if the dealership tried to do any financing for Mr. Tuhin's vehicle through Santander?
A I don't know.
Q Does the dealership -- if you know, one way or the other -- use forms from one finance company such as in Exhibit 8, and then a different finance company actually funds the vehicle? Or do you know?

A I don't know.
MR. KESHAVARZ: I pass the witness. Did you want to take a break now?

THE WITNESS: Yes.

MR. KESHAVARZ: Let's take a break.

MR. LANE: I'm going to have some redirect.

MR. KESHAVARZ: Why don't we go off the record.

MR. LANE: Sure.

(A discussion is held off the record. Brief recess is taken.)

oOo

CONTINUED EXAMINATION BY MR. LANE:

Q Hello again.

A Hello.

Q I just have to follow up with a few more questions. You're aware that there are six different cases here and Mr. Keshavarz was just asking you about his client, Mr. Tuhin.

I did want to ask you about some of the other cases of the plaintiffs that I represent.

A Okay.

Q Are you familiar with Simon Gabrys? G-A-B-R-Y-S.

A I believe so.

Q Can you tell me what you remember generally about Simon Gabrys's case?

A If I'm not mistaken, he claimed that Julio had taken money from him and he wanted it back. But it was the fact that he got overcharged, I believe, if I'm speaking about the correct client. I'm not sure.

Q Do you remember ever being a part of any conversations with Mr. Gabrys?

A No. I remember I followed up with him once, just to, you know, try to see what the issue was, because when he came in, he came in to see Julio and went directly to his office. So I just called him just to follow up. And he had complained and said to me that Julio had taken money from him. I questioned Julio. Julio never took any money from him --

Nada Smith

that's what he told me. I'm not sure if he did or did not. And he stated that he was upset because he was overcharged on his loan.

Q Do you remember a time when Mr. Gabrys was in Julio's office that you would have been coming and going from the office?

A No.

Q Do you remember Julio ever asking you to fax things to a woman named Rebecca?

A No. Like I said, I faxed things here and there to the banks, and if he asked me to make a copy of something, you know, I did so. But I don't remember faxing anything to Rebecca.

Q Do you know of anyone named Rebecca in relation to what New York Motor Group did or Mr. Estrada did?

A No, I don't know. I heard the name, but I just -- I never questioned anything. I don't know who she is, or I don't know anything.

Q How did you hear the name?

A Through Julio.
Q What would he say about Rebecca?

Nada Smith
A I know that he said he was going to call her or something, but that's it. I don't really remember too much about it, you know. I know that he kept saying, "Oh, I'll call Rebecca, I'll call Rebecca." It wasn't just with him. I don't think -- I think it happened once before, but I'm not too sure about it.
Q When you say "him" --
A Julio.
Q Right. Just now you were saying that you remembered hearing Julio mention Rebecca a few times, and not just with him?
A Not just with Simon.
Q Mr. Gabrys?
A Yes.
Q You do believe that you heard

Julio mention Rebecca to --

A Other clients.

Q You did mention that you heard Julio mention Rebecca to other customers?

A I believe so. I'm not too sure if he mentioned it with Simon or not, but I know that he did mention her -- Rebecca, the name

Rebecca -- a few times.

Q Did you ever talk to Julio about who Rebecca was?

A No. I know that she -- I don't know. I don't think she was existent, honestly. I don't know.

Q Why do you think she didn't exist?

A Because I know that he had, a client had said something -- "I don't think he's really talking to anyone." I never questioned it. I never really, you know.

Q Did you ever see him pick up the phone and make like he was calling Rebecca?

A No. I know that he said he was going to call, but I never really witnessed anything.

Q Do you have any memory of Julio giving you documents to fax for Mr. Gabrys?

A I don't -- I barely remember Mr. Gabrys. I barely had any interaction with him. When he always came into the dealership, he just went straight to Julio. I can't say that I can clearly remember. I don't think I -- I don't know. I can't clearly remember

faxing anything for him specifically. But if I was asked to fax something to the bank, he would show me on the document what needed to be faxed -- like a document from the bank needed to be faxed to the bank, and he would show me what it is and tell me, "here." And he would highlight the number on the document where the number shows and I would go and fax it.

MR. SIMON: I just want you to clarify your answer to his questions.

MR. LANE: No, please. Thanks. Don't advise her on how to answer the question.

MR. SIMON: The bottom line is I'm confused, because she uses an expression, "he," and I don't know who "he" is -- is it Gabrys, is it Julio? Who is "he"?

MR. LANE: Simon, this is my deposition. If I want to know that information, I will ask it. Please refrain from interrupting. If you have an objection, make your objection.

MR. SIMON: Listen to the question

and answer his question and focus on his question, okay?

THE WITNESS: Okay.

MR. LANE: Could you read back the

last question and answer.

(The record is read back by the reporter.)

Q Do you remember having any conversations with Simon Gabrys?

A Just that one time to follow up with him -- with Mr. Gabrys.

Q Did you call him to speak to him?

A I believe he called to speak to Julio and -- actually, no, I called him to follow up with him, because he had walked out of Mr. Julio's office and he wasn't -- he didn't -- Mr. Gabrys didn't seem too happy. So I had went and pulled his file to give him a call to follow up.

Q Do you remember when that was?

A I don't remember exactly when it was.

Q Okay. Do you remember Mr. Gabrys ever telling you that Julio had ripped him off?

A Yes, Mr. Gabrys stated that he did get ripped off.

Q He used those words; that he was "ripped off"? Does that sound right?

A I know that he was overcharged. I don't know exactly what.

Q Let me move on. Do you know who Boris Freire is? Does that name sound familiar?

A It sounds familiar, but I don't know.

Q Mr. Freire is my client and one of the other plaintiffs. He and his partner, Miriam Osorio, were at the dealership several times in the summer of 2013.

A Okay.

Q I'm trying to think of other information that might refresh your memory. They're a Hispanic couple from New Jersey with three or four children, I forget exactly, but the children would have always been with them when they came to the dealership.

A What kind of vehicle did they buy?

Q It was an Odyssey, a Honda Odyssey

Nada Smith

minivan.

A I remember seeing them, but they always walked in and spoke to Julio. I didn't know what was going on with them. They were Spanish, and they spoke to each other in Spanish -- Julio and the client.

Q You do remember who this couple is?

A I believe so, yes.

Q In your memory, they only spoke Spanish with Julio Estrada?

A Julio, yes.

Q Do you have any memory of them speaking in English with anyone in the dealership?

A They always came in and spoke to Julio.

Q Did they ever speak to you at the dealership?

A No. I don't -- I don't remember, honestly.

Q Do you ever remember seeing

Mr. Freire give money or checks to Julio Estrada?

Nada Smith

A No.

Q Do you have memory of that?

A No.

Q When did Julio Estrada stop working at New York Motor Group?

A December of 2013.

Q Were you still working there when Julio left?

A Yes.

Q Why did he leave?

A I'm not sure. He just -- he left. Him and my father were speaking to each other, and he just told my father that he was leaving. I don't know what the reason was. He just left.

Q You witnessed a conversation between Julio and your father?

A No. They were just -- to my acknowledgment, I know that he spoke to my father and just left.

Q So you didn't witness a particular conversation between Julio Estrada and your father?

A No. When he was getting his stuff

to leave he said, "I spoke to your dad. I'm leaving."

Q And what month was that?

A December.

Q Of 2013?

A Yes.

Q Did you talk to your father about Julio Estrada leaving?

A No, because I was -- I had my own things going on. I had a lot of things going on.

Q Did you continue working at New York Motor Group until the end of December

2013?

A Either the middle or the end. Yes, toward the end. I would say probably the second-to-last week.

Q Do you know Zhenghui Dong? Does that name sound familiar?

A I know they're Chinese, because of the name.

Q That's correct. Do you ever remember speaking to a Chinese customer who was complaining about Julio?

A What kind of vehicle did they purchase?

Q Honda Civic.

A They came in.

Q You remember cars, and not necessarily names or faces?

A Yes. They came in and they spoke to Julio. They came in I believe three times and every time they would go in and speak to Julio. I never spoke to them. They came complaining to me. Then Julio came and said, "I'll handle this," and he took them into his office.

Q You say that you remember Ms. Dong coming in with someone else?

A Yes. I don't remember who exactly. I don't know if it was a male or a female, but I know she was with someone else.

Q They would approach you first?

A They came in a few times. But the time that they came in to complain, they came to me. Then Julio spotted them and he came over and said, "I'll handle this. I know what their issue is." And Mr. Julio took the

clients into his office.

Q Do you remember Zhenghui Dong coming to complain to you at any time after Julio Estrada stopped working?

A No. When he left -- a week or two after he left, I left.

Q Do you remember if the police ever came at a time when Ms. Dong was there?

A I don't remember.

Q So you don't have a memory of speaking to the police about Zhenghui Dong's Honda Civic or her complaints?

A No, I don't remember.

Q Do you remember anybody ever complaining that their signature was forged on a contract?

A No. Wait, I'm sorry. I remember a client saying that, yes, it was forged. I believe it was -- yes, it was them.

Q "Them" being?

A They said -- Mr. Dong -- Ms. Dong, yes. Ms. Dong did complain that her signature was forged. But I'm not sure what the case was, because she was speaking to Mr. Julio and

Julio was talking to her the whole time and everything. But at that moment, I didn't know. Afterwards, that's when I knew that she was complaining about that.

Q Okay.

A Because like I said, when Ms. Dong came to complain to me, Mr. Julio said, "I got her." And I didn't see her after that. After I left and everything, something was mentioned about her signature being forged. That's why she came in to complain to begin with.

Q I'm sorry, I got confused there. I'm trying to follow.

A At the moment when she came to complain, I didn't know what the complaint was.

Q Could you hear her talking to Julio Estrada?

A No.

Q Do you know, do you remember, was she speaking in English with Julio Estrada?

A She barely spoke English. She had a very hard time speaking English. I had a very hard time understanding her myself and that's why Julio said, "I'll handle it." I

Nada Smith

barely spoke to her.

Q Did you have anyone at New York Motor Group who spoke Chinese?

A No.

Q Not at all?

A Oh, yeah, we did. We had someone named Kevin.

Q Kevin?

A He was working there for a short period of time.

Q Do you remember if Kevin would go into the room with Julio and Ms. Dong?

A I don't think he was working during the time that I saw her coming in. When I saw her coming into the dealership, I don't think I saw him. I don't think Kevin was working at that time.

Q I had also asked you about Shehad Kazi and Nasrin Chowdhury before?

A Yes.

Q The mother and son.

A Yes.

MR. LANE: I just want to show you some things from Ms. Chowdhury's

Nada Smith

transactions. Mark these as exhibits.

(One-page document, a photocopy of a money order, is marked as Plaintiff's Exhibit 9 for identification, as of this date.)

Q There have been several questions now about your handling of money versus other employees handling money. If I'm not mistaken, you had said that you would handle refunds for downpayments?

A I made deposits for downpayments. And if a client put money down to hold a vehicle, that's the refund that I would give.

Q If there was going to be a refund, you would return the downpayment?

A For the vehicle, yes.

Q Did you ever give clients money

for any other purpose -- or customers? Did you
ever give money to customers as a refund for
anything other than deposits?
A No.
Q Did you ever give customers
refunds if they were complaining about products
that they didn't want?

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Nada Smith
A No.
Q Did you ever refund anybody
anything for service contracts that they didn't
want?
A No.
MR. LANE: We need to mark these
as different exhibits.
(One-page documents depicting
copies of money orders, two money orders
per page, are marked as Plaintiff's
Exhibits 10 and 11 for identification,
as of this date.)
Q I'm going to give you what have

been marked as Plaintiff's Exhibits 9, 10 and 11. Just take a look at them for me.

MR. SIMON: Do you have questions?

MR. LANE: I will, yes.

Q Are you all set?

A Mm-hmm.

Q Do you have any idea what those are?

A Money orders.

Q Right. I just note that they're made out to Nasrin Chowdhury.

A Yes.

Q Do you have any idea why money orders were made out to Nasrin Chowdhury?

A No.

Q Let me just get the copies in front of me. On Plaintiff's Exhibit 9, do you recognize whose handwriting is on the money order?

A No, but I recognize the signature; that's Julio.

Q That's Julio's signature as far as you can tell?

A Yes.

Q On Exhibit 10, do you recognize the handwriting on the top money order?

A No. But, as well, that's Julio's signature.

Q Do you recognize the handwriting on the bottom money order?

A No. And I don't know whose signature that is.

Q You don't recognize that signature at all?

A No.

Q Looking at Exhibit 11.

A Mm-hmm.

Q Do you recognize the handwriting on the top money order?

A No. The signature is Julio.

Q And on the bottom --

A The same one.

Q -- money order?

A No. But the signature is Julio.

Q And you don't recognize the handwriting on these money orders?

A No.

Q That's not your handwriting?

A No.

Q Did you ever make out money orders for customers?

A No. I'm just trying to look and see if I could, you know, recognize them. Just the signature. But not on Exhibit 10. The bottom one, I don't know.

Q Was there anybody else at the dealership who would be issuing money orders?

A I don't know why they would be, to begin with; but I'm guessing that Julio took money from them and gave it back to them. When I gave clients refunds, I only gave them checks. That was the company policy.

Q What accounts were those checks drawn on?

A Either Chase or TD.

Q New York Motor Group?

A The New York Motor Group accounts, yes. And I had to get my father's approval also, before I gave the check out or anything.

Q Did Julio ever ask you to return money to customers?

A No. Salespeople. Because the salesperson would come in here and tell me, "This client's not interested in this vehicle anymore. He wants to take his hold back to hold the vehicle." Because when clients come to look at vehicles, if the client was interested he would either leave a $100 or $200 deposit toward the vehicle to hold the vehicle. And if he's no longer interested in the vehicle he'll come report to the salesperson or the sales manager, and the sales manager or the salesperson will come and tell me, "This

Nada Smith

client's not interested in the vehicle anymore. He wants a refund."

Q Could people get those refunds back?

MR. LANE: Strike that.

Q Could people get those deposits back just by asking for it?

A Well, they would have to show a -- the client would have to show a receipt.

Q The receipt they received when they put down the two or three hundred dollars?

A Exactly.

Q And those deposits were not sales deposits, but deposits just to hold the car?

A Yes, and whatever downpayment the client is giving -- we would subtract it from the downpayment. For example, if the client came to put $100 to hold the vehicle and his downpayment is $1100, the client would only put down $1000.

Q Right. You credit whatever --

A Yes.

Q -- whatever they left to hold the car?

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Nada Smith

A Exactly.

Q Do you know if people were able to get their deposit refunded if they didn't go through with the financing?

A If they just put money down and not go through financing, yes, they would get their money back.

Q Would they get a full refund?

A Yes.

Q This is a hypothetical: If I've put down $10,000 towards the purchase, and I sign the purchase order but I don't sign any loan documents, and then after the finance manager tells me either I've been declined for credit or I can only get credit on terms that I don't want -- if I was a customer at New York Motor Group, would I then be able to say, "I just want to walk away. Can I have my money back? I'm not going to buy a car here"?

A Yes.

Q And New York Motor Group would refund the money in that situation?

A Yes.

Q One hundred percent?

A Yes. I refunded the client's money all the time.

Q Go ahead.

A If they had a check, I would give the check to the client back. I would give the client's check back to him.

Q When you say, "if they had a check," what do you mean?

A If the client had a check for a downpayment for the vehicle and gave it to me and said, "I don't want the vehicle anymore," I would give them back their original check.

Q And that is if you had not already

deposited that check?

A Correct.

Q If I were buying a car, if I were a customer at New York Motor Group and I had a $10,000 cashier's check or bank check and it was given over for the deposit, how long might that check sit in the office before it actually got deposited?

A Well, I would go as soon as possible.

Q Okay.

A So it could be five minutes to two hours, tops, like I said.

Q Are you aware of anyone at the dealership ever telling a customer, "Now that you've signed the purchase, if you back out of the deal you're going to lose some percentage of your deposit"?

A No.

Q As far as you know, the policy for New York Motor Group was to refund 100 percent of the deposit, as long as they hadn't actually purchased the car yet?

A I always refunded. And I got my father's approval -- I'll call him, "Hey, this customer came in to look at this car, put down the money, but he's not interested anymore. Can I give him a refund back?" "Sure, how much is it for? Did it go into the account yet? Did it not?" And that's how it would go.

Q What if it had already gone into the account; would you still be able to refund it?

A Yes, I would give him a check from our account.

Q From your account, okay.

Would you provide refunds for as much as five to ten, fifteen thousand dollars?

A If that's what the client gave, I

would write them a check from the New York Motor Group account, yes.

Q Was it common to refund as much as $10,000?

A No. That's a very large number.

Q What were the refunds usually like, roughly?

A Just like $200, $500, small. Mostly the refunds that I had received. They were mostly vehicles that were being held. But, like, the large amounts, the most that I had refunded back was probably like, I don't remember too well, but it was nothing in the ten thousands. It was like the low, like under five thousand.

Q Do you remember if that was a check written from --

A It was written from --

Q -- the dealership's account?

A -- the New York Motor Group.

Q So money had already been deposited?

A Yes. Any money for the downpayments always went into the New York Motor Group accounts, and any refund that was given back to the client was written out of the New York Motor Group account -- that I was aware of. This, I wasn't aware of.

Q You don't recognize Exhibits 9, 10 and 11 at all?

A No.

Q Again, I just want to clarify, because I know Mr. Keshavarz asked about this and now I've just asked about it and I want to make sure I've got this straight.

It was possible for a customer to get a full refund, as long as nothing had been funded by a bank?

A Correct. I had to think about it, sorry.

Q I understand. I appreciate it, thank you. It's late, I know.

MR. LANE: I don't think I have any further questions.

Nada Smith

I'm going to pass the witness to Ms. Lindermayer.

MS. LINDERMAYER: I would like to mark these as 12, 13 and 14.

(Three one-page documents entitled "Retail Certificate of Sale" are marked as Plaintiff's Exhibits 12, 13 and 14 for identification, as of this date.)

MR. SIMON: I think I could explain these to you.

MS. LINDERMAYER: It's okay, I don't need you to explain them to me, thank you.

MR. SIMON: She may not know.

MS. LINDERMAYER: I'll ask the questions and see what she knows.

EXAMINATION BY MS. LINDERMAYER:

Q Hi, I'm Ariana Lindermayer. I'm one of the attorneys for Mr. Tuhin. I just want to show you the first document. It's Plaintiff's Exhibit 12.

Before, you had testified about floor planning. It seemed like you knew a lot

about that subject. Was floor planning something that you dealt with at New York Motor Group?

A Here and there. It wasn't something that I dealt with on a regular basis.

Q On that document that I just handed you, marked Plaintiff's Exhibit 12, do you recognize your handwriting on this document?

A Yes.

Q Is your signature on that document?

A Yes.

Q Where is your signature?

A Where it says, "New York Motor Group."

Q Under "Dealer"?

A Dealer's signature.

Q It's under the "Certification."

Can you just start reading that Dealer Certification for the record?

MR. SIMON: Do you want me to read it?

MS. LINDERMAYER: No.

A "The vehicle described above was sold to the purchaser on the date indicated. At the time of delivery the purchaser was entitled to register the vehicle. This vehicle complied with exempt" -- I'm sorry, I can't, it's not clear.

Q Just for timing purposes, that's all. That was the only part that was relevant.

A Okay.

Q So don't worry about it.

Did you understand that you were certifying -- that by signing this, you were certifying that the information contained in

this Retail Certificate of Sale was correct?
A Yes.
Q Can I have that Exhibit back?
A Mm-hmm.
Q This is something I have marked as Plaintiff's Exhibit 13. Do you recognize your handwriting on that Retail Certificate of Sale?
A Yes.
Q Is your signature anywhere on that?
A Yes.

Nada Smith
Q Where is your signature located?
A Where it says "Purchaser."
Q Just for the record, can you name who on Exhibit 13 is listed as the prior owner of the vehicle?
A Planet Motor Cars.
I was reading the wrong line -- I said "Planet," but I was reading the wrong

line. "Palisades."

Q Then who is listed as the purchaser in that document?

A New York Motor Group.

Q I'm going to hand you back Exhibit number 12. Who is listed as the prior owner for number 12?

A Planet Motor Cars.

Q Who is listed as the purchaser there?

A Shahadat -- I can't pronounce that.

Q And the last name?

A Tuhin. T-U-H-I-N.

Q The earlier-dated document -- we marked it as 13 -- indicates that the purchaser

is New York Motor Group. If you can just confirm that?

A Correct.

Q And the later-dated document,

number 12, indicates that the owner who's selling the car is Planet Motors?

A Prior owner was Planet Motors, yes.

Q At any point did Planet Motors sell this car to New York Motor Group?

A This was --

Q I'm sorry, I misspoke. At any point did New York Motor Group sell this car to Planet Motors?

MR. SIMON: Could I see the third one? I think you've marked three of these; right?

MS. LINDERMAYER: Yes, but I haven't handed her the third one of those yet.

MR. SIMON: Oh, I'm sorry.

MS. LINDERMAYER: I'm not asking questions about it yet.

MR. SIMON: Okay, I was confused.

THE WITNESS: Ask the question again.

MS. LINDERMAYER: I asked it in a confusing way.

THE WITNESS: Yes.

MR. SIMON: This is 12 and 13, then.

Q The earlier-dated exhibit, which is number 13, has New York Motor Group purchasing the vehicle?

A Yes.

Q And the later-dated exhibit, number 12, has Planet Motors as the owner of the vehicle?

A Prior owner, yes.

Q At any point are you aware of New York Motor Group selling this vehicle to Planet Motor Cars?

A No. New York Motor Group sold it to Tuhin.

Q Where does it say that?

A Right there. [Indicating] It says "Owner Information." This is one of the DMV paperwork that I did. "Dealer" is New York

Motor Group. And the purchaser is "Tuhin." So New York Motor Group sold it to Tuhin.

Q And it purchased it from?

A Planet Motors.

Q And where does it say that Planet Motor sold the car to New York Motor Group?

A On Exhibit 13, it said "Dealer Information: Planet Motor." And the purchaser was New York Motor.

Q I'm going to hand you Exhibit number 14. Do you recognize your handwriting anywhere on that document?

A No.

MR. LANE: Can I just state for the record that we are going to pass the witness to Mr. Grossman.

Lance, wait a minute. We're going to pass the witness to Mr. Grossman, but we do reserve the right to any follow-up, if necessary. Now we will take a short break. Thanks.

(A brief recess is taken from 5:00

to 5:10 p.m.)

oOo

Nada Smith

EXAMINATION BY MR. GROSSMAN:

Q Good afternoon, Ms. Smith. My name is Lance Grossman. I'm the attorney for M&T Bank in three of these cases that are now pending in federal court, in Eastern District of New York.

I'm going to ask you some additional questions regarding these lawsuits. If at any time you don't understand my question, I would ask you to so advise me and I will do my best to rephrase the question. If you answer the question, I will interpret that to mean that you understood the question and I will move on to the next question. Do you understand that?

A Yes.

Q Other counsel have given you the

ground rules with respect to the court reporter: Answer verbally and not with your hands or head movements. You still understand that; correct?

A Yes.

Q We have been going for a number of hours, and I do want to make sure that you are

Nada Smith

fully capable and you feel comfortable to continue with the deposition at this time.

A Yes.

Q To pick up on some of the questions that were asked by some of the counsel prior, I'm just going to ask you some follow-up questions.

You stated that when you would issue a refund you always asked your father for permission to do that?

A Yes.

Q And you stated that there would be no refunding after financing had been completed?

A I'm sorry, can you repeat that?

Q I sure can. Would you give refunds to anyone after financing had been completed?

A If they decided that they didn't want the vehicle?

Q Yes.

A Yes.

Q Do you remember that happening at all?

A Yes.

Q You mentioned the financing. Do you know what "financing" means; to purchase an automobile?

A Yes. I have never done it, I don't know too much about it, but I'm familiar with it.

Q What do you understand financing

of an automobile to mean?

A You get a loan on a car.

MR. SIMON: Talk louder.

A You get a loan on a car.

Q From a bank?

A From a bank, yes.

Q Can you tell me during the time that you worked at New York Motor Group what banks New York Motor Group worked with?

A I know M&T was one of them. I'm not sure about the other ones.

Q They showed you a document with the name "Santander" --

A Yes.

Q -- on it?

A Santander, yes.

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Nada Smith

Q Is that another one --

A Yes.

Q Let me just finish the question so that the record is complete.

Santander was one of the other
banks that New York Motor Group would use to
help customers finance cars?
A Yes.
Q Did you ever hear of a company
called "Capital One Auto Finance"?
A Yes.
Q Was that another company that you
would give business to?
A We used them in the very beginning
but then we stopped using them.
Q Do you know why you stopped using
them?
A I'm not sure. It was after -- I
know it was a little after Angel left that we
didn't use Capital One anymore.
Q Other than Capital One --
MR. SIMON: Can I interrupt? I'm
getting confused. She uses an
expression, "we" -- like "we didn't

use," or whatever. Who?

THE WITNESS: I'm sorry.

MR. SIMON: I mean, are you referring to New York Motor Group?

MR. GROSSMAN: Counsel, with all due respect --

MR. SIMON: I think she's just confusing names.

MR. GROSSMAN: Counsel, I appreciate that. But I also said that if she didn't understand a question, to advise me.

MR. SIMON: Don't confuse them.

THE WITNESS: Okay.

MR. SIMON: Answer the question accurately, and listen to the question; okay?

THE WITNESS: Okay.

MR. SIMON: He wants to know who the dealer was.

MR. GROSSMAN: I will rephrase it.

MR. SIMON: Okay.

Q Again, if you don't understand, I'm not here to trick you. Just let me know

Nada Smith

and I will do my best to rephrase it.

A Okay.

Q Other than Capital One Auto Finance, Santander, and M&T Bank, are you aware of any other banks or financial institutions which New York Motor Group used to help their customers obtain auto financing?

A I know that Angel used Capital One for a little bit, for the time that he was there. And after he left, Julio, I think -- I don't know how much longer he was using it. And I know Julio was using M&T and Santander. I don't know if he was using any other banks or not.

Q So you don't know if there were any others other than those two?

A I don't know.

Q Do you know how the financing process works?

A Not really.

Q You said that you were the one that was responsible for taking the file jacket

and actually putting it in the file cabinet?
A After Julio or Angel -- mostly

Nada Smith
Julio, because I barely worked with Angel. After Julio was done with his folder he would either bring it to the desk out in the open office, or he would bring it toward me and tell me to file it.
Q Do you know approximately how many cars were financed per day at New York Motor Group during the time that you worked there?
A No, I can't -- I don't know.
Q Do you have an estimate, a range?
A I have no idea.
Q Do you know if it was more than one or less than ten per day?
A I don't know, because I wasn't -- I didn't do any financing, so I wouldn't know.
Q Do you know how many cars were purchased per day at New York Motor Group,

approximately, during the time you worked there?

A Somewhat, yes.

Q Can you tell me?

A It wasn't once a day, definitely not. Probably three or four a week.

Q That were purchased from New York

Nada Smith

Motor Group?

A Depending. Some weeks there will be nothing sold. And we'll have a week that there will be four sold, or whatever the number is. So I don't know really how many. But they will have a week that they sell something, and then they won't.

Q Do you know how many of those purchases required financing?

MR. GROSSMAN: Strike that.

Q Do you know how many of those purchases were paid outright in cash?

A No.

Q Do you know how many of them were financed?

A No. But the vehicles that were paid in cash, I received the money and I deposited the money in the bank. I'm not sure how many were sold, honestly. I can't tell you. It didn't happen often, though.

Q Did you ever hear anyone at New York Motor Group ever say you can't purchase a car without financing?

A No.

Q Did you ever hear anyone, including Julio Estrada, ever tell any customers that they had to obtain financing in order to purchase a car?

A No.

Q Was your father involved with the financing in any way?

A No.

Q It would just be either Angel or --
A Julio.
Q Or Julio.
You said that there came a point in time that you would sometimes fax documents to financial institutions?
A Julio sometimes asked me to fax stuff over to whatever bank it was. It didn't happen often. It was here and there that Julio had asked me to do stuff like that.
Q You stated that you actually left New York Motor Group because there was becoming a large amount of complaints coming in about Julio?
A Well, I had a lot going on myself.

I was planning a wedding and I had a lot of things going on.
Q Do you remember if any of the complaints that you heard were from any

customers who said, "I was told I had to obtain financing to purchase this car, and I did not want to obtain financing"?

A No.

Q Did your father or anyone at New York Motor Group ever explain to you how a customer would go about obtaining financing for an automobile?

A No.

Q One of the other attorneys prior to me asked you a question about if you've ever heard of the term, "Dealertrack"?

A Yes.

Q Do you have any information on what Dealertrack is in relation to financing of an automobile?

A I know -- the reason why I know about Dealertrack is because I've seen a credit ap and it said "Dealertrack" on it. So my guess is that's the system they used to submit credit aps or put in credit aps. I don't know how it works.

Q Did Julio ever explain Dealertrack to you?

A No.

Q Did you ever personally speak to anyone at M&T Bank?

A I know a representative from M&T Bank. I know him through my father, though.

Q Did you ever speak to him?

A Yes.

Q How many times?

A A few times.

Q What about Santander? Did you ever speak to anyone at Santander?

A No.

Q What about Capital One?

A No.

I'm sorry, back to your question about pricing -- not the price, the financing. I know that a salesperson had explained -- I was just walking by and I overheard the salesperson explaining to the client that came in, the client came in on the internet price

Nada Smith

and wanted to buy the car for cash with the internet price. The salesperson explained to him that the only way he'll get the internet price is if he finances. That's the only thing that I heard.

Q How many times did you hear that?

A Once or twice. But that's the only thing that I heard. But I never heard them saying -- I never heard a client saying, "Oh, I don't want to finance. That's the only way that I can purchase the vehicle."

Q So this would be with respect to an internet price?

A Yes. If the client -- to my acknowledgment, the salesperson told the client that the only way he would get the price of the vehicle is if he would finance through the bank -- or whatever it is.

Q Did they ever say which bank?

A No.

Q Did you ever hear anyone from M&T Bank ever say that in order for someone to

purchase a car and obtain financing from them
that they had to finance through M&T Bank?

Nada Smith

A No.

Q Did you ever have any complaints from anyone that came in and said, "Hey, the internet price is a lot lower than the price they're trying to sell me cars at"?

A No.

Q Who made up, if you know, the position that you took -- that in order to obtain an internet price, that they had to finance the automobile?

A I'm sorry, who? Can you repeat that?

Q You just testified that you heard one or two people say that they were told in order to get the internet price for a car that they had to obtain financing. Was that a written policy of New York Motor Group?

A No.
Q Is that something your father ever told you?
A Not that I know of.
Q Who said that?
A It was a salesperson that said it to a client.

Nada Smith
Q Do you remember if that client ended up purchasing the car?
A Yes.
Q Who took care of the internet pricing; who set the internet price?
A I don't know.
Q You said you had an internet person onsite?
A Yes. It was a few different girls that came in and out. I'm not sure if she was the one that was doing it or the sales manager was doing it.
Q Do you know if M&T Bank had

anything to do with the setting of a price on the internet for any of your cars?

A No, absolutely not.

Q Did you to the best of your knowledge know whether or not each of the financial institutions that New York Motor Group used had their own separate documents that they required to be filled out in order to obtain financing?

A No.

Q No, you don't know?

Nada Smith

A I don't know.

Q Did you ever have any complaints from any of your customers, saying that M&T's financing, that the terms of their financing were too great and they could not afford it?

A Yes, I have had customers complain about that.

MR. SIMON: You've got to keep

your voice up so we can hear.

A Yes, I've had customers complain about that.

Q Was that during the time that Julio worked there?

A Yes.

Q Did you ever contact M&T Bank about that?

A No.

Q Did you ever tell your father about that?

A Yes.

Q What did he do?

A He spoke to Julio about it, and Julio seemed to take care of the complaint.

Q Do you know how he took care of

that complaint?

A No. I never followed up with him.

Q Did you ever hear, during the time that you said the complaints were coming in about Julio Estrada, that anyone complained that Julio had covered up terms of the papers that they were signing?

A No.

Q What other type of complaints did you remember people saying about Mr. Estrada?

A That he overcharged them. That he took money from them. Basically, that the client was overcharged by Julio and that Julio took money from them and it was never returned to the client.

Q As part of your job duties and responsibilities at New York Motor Group, did you ever receive any phone calls from any of your customers saying, "Hey, I spoke to M&T Bank. I had a problem and they told me to call the dealership directly"?

A Not that I remember.

Q If a complaint came in about Julio Estrada from a client, is it possible that

Julio spoke to them directly and it wouldn't go through you?

A Yes.

Q You stated that you were a signatory on the bank account of New York Motor Group?

A Yes.

Q For how long were you a signatory?

A A few months. It wasn't the full year that I was there.

Q Why did you become a signatory?

A Because my father was never at the dealership and we did have clients coming in for refunds and I did need to pay bills and everything. But nothing went out without his approval.

Q Counsel had talked about -- and again, I apologize if I'm pronouncing this incorrectly -- one of the plaintiffs in one of these lawsuits is named "Chowdhury"?

A Yes.

Q Do you remember that person in particular?

A Yes. That's the mother and son?

Nada Smith

Q Yes.

A Okay.

Q Do you remember what their complaint was about Mr. Estrada?

A I'm not sure, because every time they came they would go straight to Julio and Julio would talk to them.

Q Did they ever say anything to you about Mr. Estrada?

A That he overcharged them, and stuff like that. But they didn't directly talk to me. They just spoke out loud.

Q Did they ever make any complaints about M&T Bank to you?

A No.

Q Do you know if they ever had a resolution of their complaint regarding Julio Estrada with your father or the company?

A I don't know, but I stopped seeing them, so I assume that Julio handled their issue.

Q Did you, by the way, read or did

anyone tell you what the allegations are in these complaints against you and your father?

Nada Smith

A No.

Q Did you ever discuss it with your father?

A About? I'm sorry, can you repeat that?

Q Sure. You know there are lawsuits in which you're named as a party in these lawsuits?

A Yes.

Q Do you know what the allegations are against you?

A Some of them. Not all.

Q The ones that you do know; what are you aware of those allegations being?

A Clients claiming that -- I'm sorry.

Q Sure, take your time.

A They're just complaining that -- I was involved in a lot of their complaints with Julio. But like I said, I'd never done finance, so I don't know what -- all I just know is that Julio did overcharge them.

Q How do you know that?

A Because the customer will complain

about it.

Q Did any of the customers ever make any complaints about anyone other than Julio overcharging them?

A No, just Julio.

Q Did anyone ever make complaints about you being involved with that?

A They say that I was a witness. But I was never present.

Q Did any of the customers -- outside of these lawsuits -- ever say to you, "I think you're involved with this"?

A Yes. And I told them that I

have -- I told them that his job -- Julio's job is Julio's job. I don't know what Julio does. I explained to them that I have nothing to do with what Julio does.

Q Did you ever receive any complaints during the time that you were working for New York Motor Group about any other employees other than Julio Estrada?

A I don't think so. It was mainly Julio. All the complaints coming in were for Julio. And from the finance department.

Q Did you ever get complaints from any customers saying that the salespeople were using pressure tactics in order for them to purchase cars?

A No.

Q Did you ever receive any complaints from anyone saying that your internet person is putting up fake numbers on the internet?

A No.

Q One of the attorneys here spoke to you about Mr. Tuhin and the fact that there was some protesting going on?

A Yes.

Q Do you remember that?

A Yes.

Q Do you remember the first time you met Mr. Tuhin?

A Yes.

Q When was that?

A I don't remember when it was exactly.

Q Let me ask you this. Was it before or after he had proceeded with the

purchase of his automobile?

A It was when he was purchasing his automobile, when he purchased his vehicle. I had never met him before. I just met him the day that he bought his vehicle.

Q Why don't you tell me this, because I don't think it was explained during your deposition. Take me through the steps of when someone walks into that showroom looking for a particular car. How does it work? They meet with the salesperson who shows them the car; is that how it works?

A Yes.

Q After they see a salesperson, who determines what the price of the car is going to be?

A Julio and the salesperson.

Q So if someone walks in and sees a sticker on a car for $12,000, can that person then say, "I only want to pay $10,000"?

A He can negotiate with the salesperson.

Q Did New York Motor Group allow negotiations on their purchases?

A I don't know. I was never on the sales floor or spoke to any salespeople like that.

Q After an amount was determined for the purchase of an automobile, would it be determined if the person then needed to obtain financing to purchase the car?

A I would believe so.

Q If someone wanted to purchase an automobile without obtaining financing, would they ever see Julio Estrada?

A I think so. I think -- I think all of the customers who walked in met with Julio.

Q That's what I'm saying.

So they would see Julio whether or not they wanted to purchase the cars outright without financing --

A Yes.

Q -- or whether they wanted to obtain financing?

A Yes, all the clients met with Julio.

Q Were you ever directly involved in

Nada Smith

any of the discussions between Mr. Estrada and Mr. Tuhin?

A No.

Q Were you ever involved in any of the discussions between Mr. Estrada and Ms. Chowdhury?

A No.

Q Were you ever involved in any of the discussions between Mr. Estrada and Mr. Gabrys?

A No.

MR. SIMON: Off the record.

(A discussion is held off the record.)

Q I'm going to show you what has been previously marked as Defendant's Exhibit F at a deposition on October 28, 2014.

I will ask you if you know what this document is. If you have your copies, it's Bates-stamp PRFD 000022.

MR. SIMON: That was the Tuhin deposition?

MR. GROSSMAN: I think this was
the Gabrys deposition on the 28th.

Nada Smith

A Yes, that's a credit ap.

Q Let me make sure that your counsel is okay with you answering first. Have you seen that type of document before?

A Yes.

Q Do you know what that is?

A Yes. It's a credit application.

Q Do you know if that document was used by New York Motor Group for all the financial institutions that they were using to obtain financing?

MR. SIMON: If you know.

A I can't say for all of them, because I'm not sure, but the ones that I have seen in the deal jackets, this is what it looks like.

Q Do you know who fills that out?

A No.

Q Do you know who signs it? Do you want to look at the last page?

A "Applicant signature" -- so the applicant would be signing it.

Q Were you ever involved in any of those documents that say "Dealertrack" at the

top ever being forwarded to either M&T Bank or Santander?

A No.

Q Do you know who provides the information that goes in that document?

A I don't know.

Q Do you know whether or not M&T Bank has anything to do with the preparation of that document?

A I don't know.

Q Do you know what happens with that document when it gets sent to the financial institutions with respect to financing?

A I don't know.

Q When you were asked by Mr. Estrada to fax something, do you remember ever faxing that document to M&T Bank?

A I don't remember.

Q You had testified earlier that there would be times that you would sign and put your name on some bank documents. Do you remember that?

A Yes, but it was only DMV-related. It wasn't bank-related.

Nada Smith

Q When you say "DMV-related," what are you talking about?

A I mean like the odometer statement that he had presented to me before, or an MV-82 -- that stuff I believe the bank needs.

Q You would never sign a Dealertrack document?

A No.

Q Would you sign a credit application?

A No.

Q Did you ever sign a Retail Installment Agreement?

A I don't even know what that is.

MR. GROSSMAN: One has already been marked, right?

MR. SIMON: She was shown it this morning. It had been marked at the Tuhin deposition.

Q You had been previously shown this document, which is Defendant's Exhibit C from the deposition on 10/27/14. Would this be a bank document that you would ever sign?

A No.

Q How about a bill of sale? Did you ever sign that?

A No.

Q So your testimony, ma'am, is that

you would only sign DMV documents and send them to the bank?

A Yes.

Q Did you ever sign anyone's name but your own on any documents?

A No, never.

Q Were you ever asked to do that?

A Never.

Q Did M&T Bank ever ask you to sign any documents on someone's behalf other than your own name?

A Never. I never even spoke to M&T Bank.

Q How about Santander? Did they ever ask you?

A No.

Q Did you ever attempt to contact M&T Bank with any complaint that any customers ever made to you?

A No.

Q Were you ever present during any conversations that Mr. Estrada ever had with M&T Bank?
A No.
Q Do you know if Mr. Estrada ever told you that he had spoken to M&T Bank?
A I think so.
Q Do you know how often you spoke to him?
A No.
Q What about Santander? Do you know if Mr. Estrada ever said that he spoke to Santander?
A Yes.
Q Do you know what the sum and substance of those conversations were?
A No idea.
Q How about your father? Did he ever speak to M&T Bank that you're aware of?
A I don't know.
Q Do you know if your father ever spoke to Santander Bank?
A I don't know.
Q One of the questions that was

Nada Smith

asked of you was whether anyone ever wanted to return a vehicle before funding. Do you remember that question?

A Yes.

Q So that the record is clear, when we talk about "funding," we're talking about at the time that the money is given to New York Motor Group.

A I don't know what "funding" exactly is, but I know that it means that the loan went through completely.

Q So that we are clear, when you answered that question when you said that the -- before funding, did that mean when the loan went through completely? Did that mean the time that New York Motor Group got the money, or after the bank approved the loan?

A Hold on, I'm sorry.

Q Sure.

A This is a little rough for me -- doesn't the -- no, it gets approved before the customer leaves with the car.

Q The loan gets approved before the customer leaves with the car?

Nada Smith

A I think so.

Q Again, I'm not asking you to guess. It's not a test.

A Okay. I don't know. I really don't know, sorry.

Q When the dealership would get the financing amount, would it be wired into the dealership's bank account?

A I don't know.

Q Would you get any type of confirmation from either Santander or M&T after the funding was completed to New York Motor Group?

A I don't know.

Q Do you know how many times a month M&T Bank would fund a purchase for New York Motor Group?

A How often?

Q Yes.

A No, I wouldn't know.

Q Same question for Santander; would you know that?

A No.

Q You mentioned that Mr. Tuhin had

his car approximately one month before he came in and complained?

A I believe a little over one month, because Mohammed had told me -- the sales manager at the time had told me that he made payments. I don't know if he meant "payment," or "payments" in general. But I know that Mr. Tuhin had the vehicle a while before he came in to return it.

Q What was the time period between the first time he came in and made a complaint and the time that he had the protest?

A I'm not sure. I don't remember.

Q One of the questions that was asked of you had to do with whether you received complaints from customers; that they were told that the interest was to go down on a loan that they took out. Do you remember that question?

A Yes.

Q And you said that you approached Mr. Estrada about it; he showed you how it can be done?

A Yes.

Q How did he show you that it could be done?

A He showed me where he used to work before, a client that he had. He had taken a picture of his, you know, approval and everything like that. I don't know why he would do so, but he had showed me. And he showed me that -- he just explained to me that if a client does make a payment on time, because I'm not sure how finance works, so I only go by his word.

Q That's fine.

A So he told me that if a customer makes his payments on time that his interest rate will go down. And I said, "How often?" I asked Julio how often does that happen. And he said, "All the time."

Q Did he say that the bank that gave the financing would be the one that would give the lower interest rate, or he would go to a different bank?

A I didn't get too detailed into it, because I didn't know. I don't know.

Q Did he ever tell you which banks

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Nada Smith

he would go to, to help them refinance after they made their payments?

A No.

Q Did you ask him?

A No.

Q Did you ever see Ms. Chowdhury sign any documents in order to obtain financing?

A I don't remember honestly. But she did -- I had her sign the MV-50 and MV-82, the DMV paperwork that I had pulled out for her to sign. So I'm guessing she did sign the paperwork and everything, the agreement to finance.

Q Did she make any complaints about her arrangements to obtain financing at that time?

A At the time of the purchase of the vehicle, no.

Q How about Mr. Gabrys? Did you ever see him sign any financing documents?

A No.

Q Did he ever make any complaints to you about the financing documents that he signed?

A No.

Q You had also stated that after the file was completed, you would take it and actually put it into a cabinet?

A Yes.

Q I think we established that that cabinet was not locked; correct?

A Correct.

Q Would you look in the file jacket to see that the papers -- all the papers -- were in order, or would you just take the file and put it into the cabinet?

A I would just take the file. Sometimes I would check for the paperwork that I filled out, the DMV paperwork, and I would just pull out the whole file to get the papers that I needed.

Q Did you have a computer at your desk?

A Yes.

Q Were you able to access the same programs that the financing department had on their computers?

Nada Smith

A I don't believe so. I never even tried, because I wasn't doing anything. But I don't think I could.

Q Would your computer get a notification when financing was approved for a particular client?

A No.

Q Do you know which computers would have that?

A Julio's.

Q Did your father have access to the same programs that Julio had on any of his computers?

A No, I don't think so.

Q You said that Mr. Tuhin was excited about getting his car?

A Yes.

Q Do you remember when you saw that excitement? Was that the day he purchased the car; correct?

A Yes, the day he purchased the vehicle.

Q Did he have any complaints about any documents that he had signed at that time?

Nada Smith

A No.

Q Did he ever say to you, "I don't even know who I'm getting financing from"?

A No.

Q Did Mr. Chowdhury ever say that to you?

A No.

Q What about Mr. Gabrys?

A No.

Q Do you remember any of those three people ever saying to you at any time that, "I didn't know I was getting financing from M&T Bank"?

A No.

Q You had mentioned that there was one person who made a complaint about forgery?

A Yes, that Chinese client.

Q Dong?

A Yes.

Q Do you know who they financed with?

A I don't know what their story completely was, but I know that it had came up as a complaint. I don't know who their bank

was. I don't know what happened with that client exactly.

Q Do you know if that matter got resolved?

A I have no idea.

Q I'm sorry if I asked this question already. Let me just make sure.

A Okay.

Q Did you ever advertise during the time that you worked there, other than on the internet?

MR. SIMON: "You," referring to the dealership?

MR. GROSSMAN: The dealership.

Q Meaning the dealership; did you ever advertise in newspapers?

A I don't think so. I wouldn't know.

Q To the best of your knowledge you advertised only on the internet? "You," meaning the dealership.

A Yes.

Q Again, I'm sorry if I already asked this question. Do you remember any

specific complaints made to you about the internet price being lower than the price they were told the car would sell for?

A No.

Q Do you have any idea of the approval process of any of the banks on how they approved clients for financing?

A No.

Q Did Mr. Estrada ever have any conversation with you and tell you the difference of how one bank would approve someone as opposed to another bank?

A No.

Q To the best of your knowledge, before Mr. Estrada started working there did you ever receive any complaints from any customers that they were told that they can lower their interest rate on their financing?

A I don't think so. I don't remember, but I don't think so.

Q Let me ask you this. The first time you remember hearing about customers complaining about being told that they can lower their interest rate was when Mr. Estrada

was working for New York Motor Group?

A Correct.

Q You left there right before Mr. Estrada left?

A Right after he left. Right after Mr. Estrada left, I left.

Q Were you ever made aware by anyone of any other complaints made against New York Motor Group after Mr. Estrada left; that they were being told that they can lower their interest rate on their financing and that they found out that they couldn't?

A I don't know. I was there for a short period of time after Mr. Estrada left.

Q Mr. Keshavarz asked you about cameras at New York Motor Group.

A Yes.

Q Were you involved in any way in keeping or maintaining any of the film or video from those cameras?

A No.

Q One of the questions that was asked of you was whether or not you provided full, 100 percent refunds on people who would request refunds on cars that they didn't want to purchase?

A Mm-hmm.

Q I must have missed the answer.

Do you remember ever giving less than 100 percent of a refund to someone who wanted to bring back a car?

A No. We always gave them back 100 percent, to my best knowledge.

Q Do you know to what extent, if any, M&T Bank would speak to any of the customers or clients of New York Motor Group prior to them applying for financing?

A No.

Q Do you know to what extent, if any, M&T Bank would speak to the customers during the financing process?

A No.

Q Do you know if M&T Bank would even speak to the customers during the financing process?

A I don't know.

Q Did Mr. Estrada ever come to you and say that he was going to use another bank other than M&T Bank, because he didn't like working with M&T Bank?

A No.

Q Did he ever come to you and say that he was going work with another bank other than Santander Bank, because he didn't like working with Santander Bank?

A No, he never talked to me about any of that stuff.

MR. GROSSMAN: One minute and I'll wind up. I have nothing further. Thank you very much.

THE WITNESS: Thank you.

MR. LANE: I have no further questions for Ms. Smith.

MR. SIMON: I have some questions. I'm going to withhold them for us.

(Time noted: 5:52 p.m.)

A C K N O W L E D G M E N T

STATE OF NEW YORK)

: ss

COUNTY OF)

I, NADA SMITH, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of February 26, 2015; that the transcript is a true, complete and correct record of my testimony, and that the answers on the record as given by me are true and correct.

____

NADA SMITH

Signed and Subscribed to
before me, this ____ day
of _______________, 2015

____
Notary Public, State of New York

I N D E X

WITNESS PAGE

NADA SMITH

Examination by:

MR. LANE 6, 209

MR. KESHAVARZ 115

MS. LINDERMAYER 235

MR. GROSSMAN 242

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EXHIBITS

PLAINTIFF'S DESCRIPTION PAGE

1 Copy of Nada Smith's New York State identification card 13

2 Copy of Nada Smith's United States Uniformed Services ID card 14

3 Two-page document entitled "NYC Department of Consumer Affairs

Notice of Hearing" 84

4 Two-page document entitled "NYC Department of Consumer Affairs Notice of Hearing" 86

5 One-page document entitled "Technology Insurance Company, Inc., Theft Deterrent Product Protection Certificate" 104

6 One-page document entitled "Santander Consumer USA Guarantee of Title" 105

7 One-page document entitled "New York State Department of Motor Vehicles, Odometer and Damage Disclosure Statement" 108

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EXHIBITS

PLAINTIFF'S DESCRIPTION PAGE

8 Document entitled "Santander Consumer USA Reference Release Form" 207

9 One-page document depicting one money order 224

10 One-page document depicting two money orders 225

11 One-page document depicting two money orders 225

12 One-page document entitled "Retail Certificate of Sale" 235

13 One-page document entitled "Retail Certificate of Sale" 235

14 One-page document entitled "Retail Certificate of Sale" 235

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DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION PAGE

Insert name of Long Island City dealership that Ms. Smith began working at in January of 2014 21

Provide copies of Ms. Smith's tax returns from 2010 to the present 43

Provide information related to where Ms. Smith banked and how much money she was paid by her father during the time she worked at the New York Motor Group 93

INDEX CONTINUES...

DOCUMENTS AND/OR INFORMATION REQUESTED

DESCRIPTION PAGE

Provide information about money paid by Mr. Eltouby or his wife to his daughter, Nada Smith, during the time she worked at New York Motor Group; provide information

related to which banks this money was deposited into 95

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C E R T I F I C A T E

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK }

I, MEDEA EDER, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That NADA SMITH, the witness whose examination is hereinbefore set forth, was duly sworn by me and that this transcript of such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of March 2015.

____
MEDEA EDER